Chief LeRoy Howard
Seneca-Cayuga Tribe of Oklahoma

Testimony
Before the Committee on Resources
United States House of Representatives

Hearing On
" Status of Settling Recognized Tribes'
Land Claims in the State of New York"

July 14, 2005

Chairman Pombo and Members of the Committee:

My name is LeRoy Howard. I am the Chief of the Seneca-Cayuga Tribe of Oklahoma and I appreciate the opportunity to testify here today. I am accompanied by Second Chief James Allen, First Councilman Pat Young and by our attorney, Glenn Feldman, who has represented the Seneca-Cayuga Tribe in its New York land claim for the last 24 years.

Because my time is limited, I want to make just a few brief points.

The Seneca-Cayuga Tribe was the first of these five tribes to enter into a land claim settlement agreement with the State of New York; our agreement was signed on November 12, 2004.

While our settlement would permit the Tribe to operate a casino in the Catskills, I want to emphasize that our land claim had nothing to do with gaming or so-called "reservation-shopping." The Seneca-Cayuga Tribe intervened in the Cayuga land claim case in 1981 – 24 years ago – long before anyone in this room was even thinking about Indian gaming or tribal casinos. We got into that litigation to establish that tribal lands had been taken from our ancestors illegally – in violation of federal law and treaties – and to assert claims to that land that our tribal elders have been talking about for generations.

In the course of that litigation, the right of the Seneca-Cayuga Tribe to assert a claim to lands in central New York was clearly established. As the lawyers say, the Seneca-Cayuga Tribe was found to be "a lawful successor-in-interest to the historic Cayuga Indian Nation that entered into the 1794 Treaty of Canandaigua." In 1984, the Department of the Interior reached this conclusion and filed affidavits to that effect in the land claim case. A year or so later, the federal court hearing the Cayuga land claim also concluded that the Seneca-Cayuga Tribe was a successor-in-interest to the historic Cayuga Nation. And just last year, in a related case, the same federal judge, after reviewing thousands of pages of historical documents and hundreds of pages of briefs and expert reports, found no reason to alter his decision that the Seneca-Cayuga Tribe was a lawful successor-in-interest with a legitimate right to assert a land claim in central New York.

The 25-year history of the Cayuga land claim case has been long and difficult. The tribes have scored some major victories, like the award of a nearly $250 million judgment against the State of New York for the unlawful taking of Cayuga lands. Two weeks ago, though, we suffered a major setback, with a 2 to 1 decision by a panel of the Second Circuit Court of Appeals reversing that judgment and basically telling us: "your lands were taken illegally, but it would be unfair to the State to let you do anything about it."

We find that decision wrong and insulting, and we intend to fight on in the courts and do everything we can to have that decision overturned. At the same time, though, we are still willing to settle this case on the terms of our November 12, 2004 settlement agreement with the State. Although we have not had any formal discussions with the State since the recent Second Circuit decision, we are hopeful that the State will be willing to abide by that agreement or something very much like it. In our view, that agreement was beneficial to the State and to the Tribe when it was made, and it continues to be today.

Let me conclude by tying our settlement efforts into the proposed legislation that this Committee may soon consider.

I don't know if there is a national problem concerning off-reservation gaming, or so-called "reservation shopping" that requires a legislative solution. But I do know that the situation in New York involving tribal land claims, potential settlements and gaming in the Catskills is absolutely unique. As a result, any bill that attempts to address off-reservation gaming in California, or Colorado, or Ohio, is going to be completely inapplicable to the complexities of New York.

This is not to say that Congress may not have to address these issues. As you are hearing today, the settlement of any or all

of the pending land claim cases in New York will require congressional approval through legislation. At that time, when specific settlements, which may or may not include a gaming component, are presented to you, Congress will have the chance to weigh the merits of those specific settlement proposals. That will be the proper time and place, if necessary, to address off-reservation gaming issues in New York. In my view, it would be a serious error for proposed legislation to attempt to address the unique situation of New York land claims in a vacuum. I would strongly urge the Committee not to attempt to address New York land claims in your draft bill. You will have that opportunity if and when final settlements of these complex land claims are reached. To try to shoehorn a solution to the unique situation in New York into a bill addressing other concerns would do a great disservice to both the land claim tribes and the State of New York

Thank you. I would be happy to answer any questions you may have.