



NIGA/NCAI TRIBAL LEADER TASK FORCE ON INDIAN GAMING



September 8, 2004

Dear Congressman:

We write on behalf of the National Congress of American Indians (NCAI), the oldest and largest Native American organization in the Nation, and the National Indian Gaming Association (NIGA), and NIGA's 184 Member Tribes, in support of Congressman Hayworth's amendment to the FY 2005 Labor, Health, and Human Services Appropriations bill.

This amendment will prevent the National Labor Relations Board from enforcing its misguided decision in *San Manuel Indian Bingo and Casino*, 341 NLRB 138 (May 28, 2004). In that decision, the Board overruled 30 years of its own precedent and ignored a number of federal court decisions treating Indian Tribes as governments for purposes of the NLRA. State and local governments are exempt from application of the NLRA – and, in the past, the Board and the courts have provided that same respect to tribal governments. Without adequate explanation or analysis, the Board deemed the tribal government-owned operation in question a commercial enterprise, not worthy of governmental treatment. This decision represents a complete disrespect for the status of Tribes as governmental employers.

Indian tribes provide crucial government services on Indian lands, and government operations can't be held hostage to the provisions of the NLRA. Unlike a private business, we can't stop operations. Our police and fire departments have to stay open, and these agencies depend on tribal government business operations for funding.

While our organizations have urged Congress to enact permanent legislation to address the NLRB's *San Manuel* decision (*see* Attached Resolution), we feel that the Hayworth amendment will provide a period of time during which all interested parties can negotiate a reasonable long-term approach to resolve the problems posed by the decision.

Sincerely,

Ernest L. Stevens, Jr.
Chairman

Tex Hall
President