

New York State Department of Environmental Conservation
Deputy Commissioner & General Counsel
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November 30, 2005

Mr. Scott C. Meneely
Acting Director, Eastern Region
Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

Re: Oneida Indian Nation/Request to Take Land into Trust

Dear Mr. Meneely:

The New York State Department of Environmental Conservation (NYSDEC) requests designation as a “cooperating agency” pursuant to the National Environmental Policy Act (NEPA) for the Oneida Indian Nation’s application to the Bureau of Indian Affairs (BIA) for trust status of certain lands within the State of New York.

This request is made in recognition of the NEPA mandate that Federal agencies responsible for compliance with NEPA do so in “cooperation with State and local governments” that have jurisdiction by law over the subject action. (42 U.S.C. § 4331[a]). Further, the Council of Environmental Quality (CEQ) regulations implementing NEPA emphasize the importance in allowing State and local agencies to participate in the NEPA process to ensure that decision makers have the environmental information needed to make necessary findings under applicable laws and regulations. (*See* 40 C.F.R. §§ 1501.6, 1506.2, and 1508.5).

The NYSDEC understands and accepts the duties and obligations of cooperating agency status, and will participate fully with the NEPA process. Although the CEQ regulations do not expressly provide for involvement by cooperating agencies in the preparation of an Environmental Assessment (EA), request is hereby made that if cooperating agency status is granted, that NYSDEC be afforded the opportunity to participate in the development of the EA.

The NYSDEC believes that by participating as a cooperating agency it can better serve the BIA in its role of identifying the relevant areas of environmental concern with the application. The NYSDEC’s participation as a cooperating agency will include assistance with the preparation of the NEPA analyses by providing appropriate levels of technical expertise, staff

support for the procurement of necessary documentation, and will serve to better foster the communication between Federal and State agencies tasked with the administration and processing of the environmental review.

If cooperating agency status is not granted to the NYSDEC, please be advised that the NYSDEC requests notification of all matters concerning the NEPA environmental review in regard to the above referenced matter.

Thank you for your consideration of this request. Please contact me if you should have any questions.

Sincerely,

James H. Ferreira

James H. Ferreira
Deputy Commissioner
and General Counsel