

ONEIDA INDIAN NATION



ONEIDA NATION HOMELANDS

A PROTOCOL FOR PROCEDURES OF HISTORICAL CONSULTATION BETWEEN THE UNITED STATES DEPARTMENT OF AGRICULTURE'S NATURAL RESOURCES CONSERVATION SERVICE & THE ONEIDA INDIAN NATION

Premises

The United States Department of Agriculture, Natural Resources Conservation Service in Syracuse [hereafter NRCS] anticipates the occurrence of construction projects within the geographical area of interest to the Oneida Indian Nation. In accordance with the letter and spirit of Executive directives and federal requirements to consult with appropriate Indian nations on a government-to-government basis, the NRCS hopes to improve communication with the Oneida Indian Nation on matters of mutual concern.

Likewise, the Oneida Indian Nation [OIN], interested in maintaining clear and open lines of communication with the NRCS, appreciates the opportunity to comment on NRCS's construction plans within Oneida aboriginal territory. It is hoped thereby that Oneida concerns about locations of cultural importance can be taken into account and any human remains, encountered in the course of NRCS construction work, may be quickly reinterred.

Good relations have always existed between the Oneida Nation and the federal government. America's first ally, the Oneida Indian Nation helped the United States to win its independence and has strongly supported the American cause for two centuries since. The U.S. view of this unique covenant is attested by the only federal treaty ever to thank an Indian Nation for its help (Veterans' Treaty of 1794) and by the current efforts of the U.S. Department of Justice in defense of Oneida treaty rights and reservation boundaries. In addition, the OIN has always aided its American neighbors in times of crisis from the War of 1812 to the present struggle against terrorism.

Therefore, the NRCS and OIN enter into this protocol consistent with regulations and procedures governing such events on lands impacted by federal undertakings as described in the amended National Historic Preservation Act (NHPA), and on federal lands as set forth in the Native American Graves Protection and Repatriation Act (NAGPRA). They do so in a respectful atmosphere of good-faith and government-to-government dealings.

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Issues and Procedures

The OIN wishes to consult on those NRCS projects involving disturbance of the ground (those classified by the NRCS as "Ground Disturbing" and "Potentially Ground Disturbing"). The NRCS agrees to apprise the OIN of possible construction being implemented through such NRCS administered programs within the Oneida geographic area of interest at the earliest possible time. The NRCS will ask about Oneida cultural concerns at specific, clearly indicated project locations. Both parties recognize that meaningful dialogue is most likely to occur when initiated long before construction begins. Either party may request information exchanged in consultation be kept confidential.

The OIN's geographic area of interest is its aboriginal territory, an area some fifty miles across and extending (north-south) from the St. Lawrence River to the present New York-Pennsylvania border. This territory, documented by Lewis Henry Morgan in 1851, is the best known and most reasonable delineation of Iroquois national boundaries. Within these bounds, the OIN feels responsible for caretaking its past and the remains of its ancestors (see attached map).

Oneida aboriginal territory includes a smaller region in which the OIN and NRCS have already been in consultation: the Oneida Reservation, a tract of land reserved by the Oneida for their exclusive use in 1788 treaty with New York and confirmed as such in the federal Canandaigua Treaty (1794). This is the current Oneida land claim area.

The OIN shall respond to these queries by checking the potential location against OIN archaeological and historical inventories as well as its resources of oral history and tradition to determine whether construction would impact known materials or sites culturally important to the OIN. If the answer is no, the OIN will so inform the NRCS. The NRCS shall consider the OIN response to be "no" if the OIN fails to respond within 30 days.

The NRCS, for its part, agrees to regard the OIN as an active and contributing party to the cultural resource management (CRM) process— allowing the OIN, for example, the courtesy of first review of draft reports.

The NRCS agrees to notify the OIN (in a timely manner) of any native archaeological materials encountered in the course of construction within the OIN's geographical area of interest.

If Native American human remains are found in NRCS-administered projects occurring within Oneida aboriginal territory, both the NRCS and the OIN stand pledged to treat such remains respectfully.

Further, both parties agree to avoid unnecessary disturbance or removal or damage to any remains and/or associated funerary objects; or, if necessary to determine their proper ownership; and, to ensure their rightful return and disposition.

If human remains are encountered as part of an NRCS project within the Oneida aboriginal territory, all actions deemed likely to damage the human remains will cease and the following steps will be taken by the NRCS:

--The NRCS will contact local law enforcement officials to determine whether the human remains are part of an ongoing criminal investigation;

--The NRCS will have a Cultural Resources Specialist (CRS) determine the boundaries and type of burial;

--If the human remains seem likely to be Native American, the NRCS will promptly conduct initial consultation with the OIN because Native American remains found in Oneida aboriginal territory are most likely to be Oneida. It is, however, mutually recognized that many different peoples have passed through this region and the NRCS may be required to consult with other federally recognized tribes concerning the burial, depending on its age and location.

Consultation, in this context, will necessarily focus on appropriate custody if both parties decide non-disturbance and local re-interment are not feasible. NRCS and the OIN will collect and share information that will assist in meeting NAGPRA (as appropriate) and NHPA requirements, and especially in determining whether direct lineal descendants can be identified, and nation-specific affiliation can be ascertained.

If the parties agree that lineal descendants are identifiable or non-Oneida cultural affiliation seems likely, the OIN will, if requested, assist the NRCS in the appropriate disposition of the remains to another federally recognized Native American tribe or group.

If it cannot be agreed that lineal descendants can be identified or that cultural affiliation can be established with another federally recognized Native American tribe or group, the OIN will advise as to proper treatment.

This agreement will remain in force until such time as it is modified by both parties in writing. Either party may terminate this agreement upon 90 days written notice.

Key officials ensuring coordination and communication between the NRCS and OIN for this agreement follow:

The key official to contact at the NRCS is:

Joseph R. DelVecchio
State Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
441 S. Salina Street, Suite 354
Syracuse, NY 13204 315 477-6504

Key officials to contact at the OIN are:

Government Leader Contact
Ray Halbritter, Nation Representative
Oneida Indian Nation
5218 Patrick Road
Verona, NY 13478 315 361-7633

cc: Stephen J. Selden, Esq.
General Counsel, Oneida Indian Nation
5218 Patrick Road
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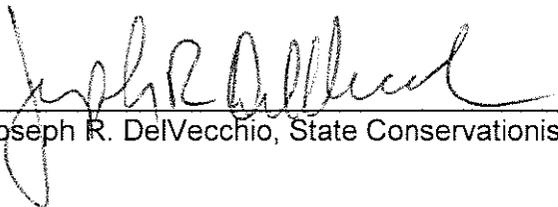
This covenant is a general statement of the parties' expectations. Nothing herein is intended to modify the rights and obligations of either party under federal law or to create any enforceable rights.

In witness whereof, the parties hereto have executed this covenant on the date(s) set forth below.



Ray Halbritter, Nation Representative, Oneida Indian Nation

7-1-2004
Date



Joseph R. DeVecchio, State Conservationist, U.S.D.A.

7-12-04
Date

