

Seneca Nation of Indians

Section 900-1.2: The definition "Person" should include "federally/state recognized Indian Nation."

Section 900-1.3(a): Where a proposed project lies within the original aboriginal territory of a federal/state recognized Indian Nation, the pre-application procedures should require pre-application meetings with that Indian Nation to determine whether the proposed site may affect a tribal historical site or the cultural resources of that Indian Nation.

Section 900-1.3(f): All references to the regulation of "waters" should explicitly recognize and include tribal regulation of certain water resources pursuant to Section 518 of the Clean Water Act.

Section 900-1.3(h): Applicants should be required to conduct a Phase IA archeological/cultural resources study for the project impact area if the area falls within an area of archaeological sensitivity as determined by the Indian Nation which claims the area within its original aboriginal territory.

Section 900-2.10: The proposed study required by Exhibit 9 should include, in the event of an unanticipated discovery of a cultural, historical or archaeological importance, consultation with the Indian Nation which claims the proposed project area within its original aboriginal territory.

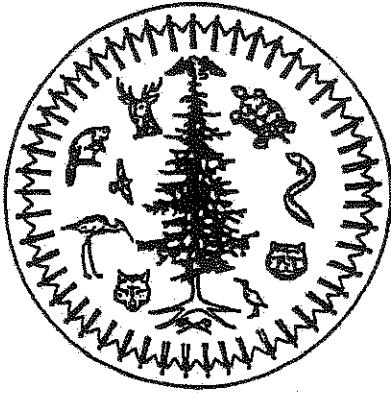
Section 900-2.12: Exhibit 11 should reflect and require that the applicant consult with the Indian Nation which claims the proposed project area within its original aboriginal territory in order to determine best practices for management of the terrestrial ecology, recognizing the long history of environmental stewardship conducted by Indian Nations.

Section 900-2.14(b): This section should explicitly recognize and include the right of Indian Nations to regulate surface waters located within its territories, as well as the right to regulate certain off-reservation waters pursuant to the Clean Water Act.

Section 900-2.25: In order to recognize the sovereign regulatory authority of federally/state recognized Indian Nations, Exhibit 25 to an application should also list any tribally required permit, consent, approval or license required for the construction or operation of the facility, as well as a statement of whether the applicant knows of others who have any pending tribal applications or filings which concern the facility.

Section 900-8.4(b): Indian Nations should be full parties to any proceeding where they were consulted during the pre-application or application process, or where issues related to the jurisdiction or authority of the Indian Nation are implicated in any manner.

Section 900-10.2(g): The Cultural Resources Mitigation and Offset Plan should be revised in consultation with the Tribal Historic Preservation Officer (THPO) for the Indian Nation which has rights to the cultural resources impacted by the construction and operation of the proposed facilities, in the event that the National Historic Preservation Act, Section 106, does not require implementation of a mitigation plan.



HAUDENOSAUNEE

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December 7, 2020

Houtan Moaveni
Deputy Executive Director
New York State Office of Renewable Energy Siting
99 Washington Avenue
Albany, New York 12231-0001
RE: Chapter XVIII Title 19 (Subparts 900-1 – 900-5; 900-7 – 900-15)

Nya:wēh Sgē:nō', Mr. Moaveni;

On behalf of the Tonawanda Seneca Nation, Council of Chiefs, I'd like to extend greetings to you and your associates and give thanks that all are enjoying good health.

We understand your office is developing regulations to govern the siting of large electric generating facilities in New York. These regulations must ensure that the sovereign rights and interests of Indian Nations are respected. We request that the State of New York require, at a minimum, that Section 900-1.3 require an applicant to conduct pre-application meetings with Indian Nations whose ancestral territories may be affected by the project, just as meetings are required with local governments. Early consultation can help avoid situations in which an applicant unknowingly seeks to construct a project in a particularly sensitive area, such as an area where ancestors are buried or a location with particular spiritual significance. As a point of reference, applicants could use the "Areas of Interest" map developed by the Office of Parks, Recreation and Historic Preservation (OPRHP) in consultation with the Haudenosaunee and other Indian Nations. In pre-application meetings, applicants should provide Indian Nations with the full range of information provided to local governments, as laid out in Section 900-1.3(a).

In addition, Section 900-1.3(h)(2) should require that an applicant submit all Phase 1A surveys to Indian Nations and OPRHP when the surveys are submitted to ORES, to ensure the Nations and OPRHP are informed prior to decision-making regarding Phase 1B analysis.

Finally, we recommend your office establish a position with responsibility for consulting with Indian Nations. Consultation must be done properly and successful consultations require time, effort, and

education. Only by building relationships with Indian Nations will your office be able to ensure renewable energy projects help and do not harm Indian Nations and their traditional territories. We thank you for your attention to this matter.

Da:h ne'hoh,

A handwritten signature in cursive script that reads "Christine G. Abrams".

Christine G. Abrams
On behalf of the Council of Chiefs
TSN Office Administrator
Tonawanda Seneca Nation