

# Oneida Tribe of Indians of Wisconsin

## BUSINESS COMMITTEE



Oneidas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.



UGWA DEMOLUM YATEHE  
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the colony of Pennsylvania, a new nation, the United States was made possible.

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### BC RESOLUTION # 6-29-05-B

#### *Emergency Adoption of the Tribal Environmental Quality Review Act (TEQR)*

- WHEREAS,** the Oneida Tribe of Indians of Wisconsin is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Tribe of Indians of Wisconsin; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV of the Oneida Tribal Constitution by the General Tribal Council; and
- WHEREAS,** a settlement agreement was reached between the State of New York and the Oneida Tribe of Indians of Wisconsin which resolved the Oneida Land Claim; and
- WHEREAS,** the settlement agreement included a casino and the Tribe's commitment to adopt particular Tribal laws, including an environmental law to govern land use in Sullivan County; and
- WHEREAS,** the Administrative Procedure Act authorizes the Oneida Business Committee to enact legislation on an emergency basis, to be in effect for a period of six months, renewable for an additional six months; and
- WHEREAS,** the Oneida Business Committee finds that adopting the Tribal Environmental Quality Review Act (TEQR) constitutes an emergency situation which requires the immediate passage; and
- WHEREAS,** emergency adoption of the Tribal Environmental Quality Review Act is necessary for the preservation of the public health, safety, or general welfare of the reservation population, and that observance of the regular APA adoption requirements for passage of laws would be contrary to public interest.

**NOW THEREFORE BE IT RESOLVED,** that the attached Tribal Environmental Quality Review Act is adopted on an emergency basis.

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**BE IT FINALLY RESOLVED**, that Tribal Environmental Quality Review Act shall be effective immediately and remain in effect for six (6) months unless extended by the Oneida Business Committee for an additional six (6) months.

Certification

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum. 8 members were present at a meeting duly called, noticed and held on the 29<sup>th</sup> day of June, 2005; that the foregoing resolution was duly adopted at such meeting by a vote of 7 members for; 0 members against; and 0 members not voting; and that said resolution has not been rescinded or amended in any way.

  
Julie Barton, Tribal Secretary  
Oneida Business Committee

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**CHAPTER 200**  
**TRIBAL ENVIRONMENTAL QUALITY REVIEW ACT**

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200.1. Purpose.	200.5. Preparation of Environmental Impact Statement
200.2. Adoption, Amendment, Applicability and Repeal	200.6. Rules and Regulations
200.3. Definitions	
200.4. Tribal Findings and Declaration.	

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**200.1. Purpose.**

200.1-1. It is the purpose of this act to declare a Tribal policy with regard to construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration (other than routine maintenance or repair or changes necessary to conform to building or fire codes) on its lands in Sullivan County which will encourage productive and enjoyable harmony between the people and their environment; to promote efforts which will prevent or eliminate damage to the environment and enhance human and community resources; and to enrich the understanding of the ecological systems, natural, human and important community resources.

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**200.2. Adoption, Amendment, Applicability and Repeal.**

200.2-1. This law is adopted under the authority of the Constitution of the Oneida Tribe of Indians of Wisconsin by Oneida Business Committee Resolution # \_\_\_\_\_.

200.2-2. This law may be amended, or repealed, by the Oneida Business Committee or by the Oneida General Tribal Council.

200.2-3. The applicability of the provisions of this Law shall be limited to the Sullivan County lands of the Tribe as identified in the Tribe's Land Claim Settlement Agreement with New York State.

200.2-4. Should a provision of this law or the application of this law be held as invalid, such invalidity shall not effect other provisions of this law.

200.2-5. Any law, policy, regulation, rule, resolution or motion, or portion thereof, which directly conflicts with the provisions of this law is hereby repealed to the extent that it is inconsistent with or is contrary to this law.

200.2-6. Should the Land Claim Settlement with the State of New York fail to culminate this law shall be automatically repealed.

200.2-7. This law is adopted under authority of the Constitution of the Oneida Tribe of Indians of Wisconsin.

**200.3. Definitions.**

200.3-1. Unless the context otherwise requires, the definitions in this section shall govern the construction of the following terms as used in this law:

- (a) "Agency" means the Oneida Environmental Health and Safety Department.
- (b) "Actions" is limited to construction, reconstruction, rehabilitation, expansion, demolition or other physical alteration of the project site (other than routine maintenance or repair or changes necessary to conform to building or fire codes)
- (c) "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character.

48 (d) "Environmental impact statement" means a detailed statement setting forth the  
49 matters specified in section 200.5. It includes any comments on a draft environmental  
50 statement which are received pursuant to section 200.5, and the agency's response to  
51 such comments, to the extent that such comments raise issues not adequately resolved in  
52 the draft environmental statement.

53 (e) "Draft environmental impact statement" means a preliminary statement prepared  
54 pursuant to section 200.5.

55 (f) "Sullivan County lands" means those lands located in Sullivan County identified in  
56 the Land Claim Settlement with the State of New York that shall be held in trust by the  
57 United States for the benefit of the Tribe for Class III gaming and related purposes.

58 (g) "Tribe" means the Oneida Tribe of Indians of Wisconsin.

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60 **200.4. Tribal Findings and Declaration.**

61 200.4-1. The Tribe finds and declares that with regard to its lands in Sullivan County:

62 (a) The maintenance of a quality environment for the people that at all times is healthful  
63 and pleasing to the senses and intellect of people now and in the future is a matter of  
64 Tribal concern.

65 (b) Every citizen has a responsibility to contribute to the preservation and enhancement  
66 of the quality of the environment.

67 (c) There is a need to understand the relationship between the maintenance of high-  
68 quality ecological systems and the general welfare of the people, including their  
69 enjoyment of the natural resources.

70 (d) Enhancement of human and community resources depends on a quality physical  
71 environment.

72 (e) The capacity of the environment is limited, and it is the intent of the Tribe that it take  
73 immediate steps to identify any critical thresholds for the health and safety of the people  
74 and take all coordinated actions necessary to prevent such thresholds from being reached.

75 (f) It is the intent of the Tribe that, to the fullest extent possible, the policies, statutes,  
76 regulations, and ordinances of the Tribe should be interpreted and administered on its  
77 Sullivan County lands in accordance with the policies set forth in this law. However, the  
78 provisions of this law do not change the jurisdiction between or among the Agency.

79 (g) It is the intent of the Tribe that the protection and enhancement of the environment,  
80 human and community resources shall be given appropriate weight with social and  
81 economic considerations in public policy. Social, economic, and environmental factors  
82 shall be considered together in reaching decisions on proposed activities of construction,  
83 reconstruction, rehabilitation, expansion, demolition or other physical alteration of the  
84 Sullivan County lands (other than routine maintenance or repair or changes necessary to  
85 conform to building or fire codes).

86 (h) It is the intent of the Tribe that the Tribe and its agencies conduct their construction,  
87 reconstruction, rehabilitation, expansion, demolition or other physical alteration activities  
88 (other than routine maintenance or repair or changes necessary to conform to building or  
89 fire codes) on its Sullivan County lands with an awareness that they are stewards of the  
90 air, water, land, and living resources, and that they have an obligation to protect the  
91 environment for the use and enjoyment of this and all future generations.

92 (i) It is the intent of the Tribe that the Tribe and its agencies which regulate construction,  
93 reconstruction, rehabilitation, expansion, demolition or other physical alteration activities

94 (other than routine maintenance or repair or changes necessary to conform to building or  
95 fire codes) of individuals, corporations, and public agencies on the Tribe's Sullivan  
96 County lands which are found to affect the quality of the environment shall regulate such  
97 activities so that due consideration is given to preventing environmental damage.  
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99 **200.5. Preparation of Environmental Impact Statement.**

100 200.5-1. The Tribe and its agencies shall use all practicable means to realize the policies and  
101 goals set forth in this law, and shall act and choose alternatives which, consistent with the  
102 purposes for which the land is to be held in trust, social, economic and other essential  
103 considerations, to the maximum extent practicable, minimize or avoid adverse environmental  
104 effects, including effects revealed in the environmental impact statement process.

105 200.5-2. The Agency (or applicant as hereinafter provided) shall prepare, or cause to be  
106 prepared by contract or otherwise an environmental impact statement on any action they propose  
107 or approve which may have a significant effect on the environment. Such a statement shall  
108 include a detailed statement setting forth the following:

- 109 (a) a description of the proposed action and its environmental setting;
- 110 (b) the environmental impact of the proposed action including short-term and long-term  
111 effects;
- 112 (c) any adverse environmental effects which cannot be avoided should the proposal be  
113 implemented;
- 114 (d) alternatives to the proposed action;
- 115 (e) any irreversible and irretrievable commitments of resources which would be involved  
116 in the proposed action should it be implemented;
- 117 (f) mitigation measures proposed to minimize the environmental impact;
- 118 (g) the growth-inducing aspects of the proposed action, where applicable and significant;
- 119 (h) effects of the proposed action on the use and conservation of energy resources, where  
120 applicable and significant;
- 121 (i) effects of proposed action on solid waste management where applicable and  
122 significant; and
- 123 (j) effects of any proposed action on, and its consistency with, the comprehensive  
124 management plan of the special groundwater protection area program, as implemented by  
125 the New York commissioner pursuant to article fifty-five of New York's Environmental  
126 Conservation Law; and
- 127 (j) such other information consistent with the purposes of this law as may be prescribed  
128 in guidelines issued by the Tribe pursuant to section 200.6.

129 200.5-3. The environmental impact statement shall also include copies or a summary of the  
130 substantive comments received by the Agency and the Agency's response to such comments.  
131 The purpose of an environmental impact statement is to provide detailed information about the  
132 effect which a proposed action is likely to have on the environment, to list ways in which any  
133 adverse effects of such an action might be minimized, and to suggest alternatives to such an  
134 action so as to form the basis for a decision whether or not to undertake or approve such action.  
135 Such statement should be clearly written in a concise manner capable of being read and  
136 understood by the public, should deal with the specific significant environmental impacts which  
137 can be reasonably anticipated and should not contain more detail than is appropriate considering  
138 the nature and magnitude of the proposed action and the significance of its potential impacts.

139 200.5-4. The Agency may require an applicant to submit an environmental report to assist the  
140 Agency in carrying out its responsibilities, including the initial determination and, (where the  
141 applicant does not prepare the environmental impact statement), the preparation of an  
142 environmental impact statement under this law. The Agency may request such other information  
143 from an applicant necessary for the review of environmental impacts. Notwithstanding any use  
144 of outside resources or work, agencies or the Tribe shall make its own independent judgment of  
145 the scope, contents and adequacy of an environmental impact statement.

146 200.5-5. As early as possible in the formulation of a proposal for an action, the responsible the  
147 Agency shall make an initial determination whether an environmental impact statement need be  
148 prepared for the action.

149 200.5-6. With respect to actions involving the issuance to an applicant of a permit or other  
150 entitlement, the Agency shall notify the applicant in writing of its initial determination  
151 specifying therein the basis for such determination. Notice of the initial determination along with  
152 appropriate supporting findings on Agency actions shall be kept on file in the main office of the  
153 Agency for public inspection.

154 200.5-7. If the Agency determines that such statement is required, the Agency or the applicant at  
155 its option shall prepare or cause to be prepared a draft environmental impact statement. If the  
156 applicant does not exercise the option to prepare such statement, the Agency shall prepare it,  
157 cause it to be prepared, or terminate its review of the proposed action. Such statement shall  
158 describe the proposed action and reasonable alternatives to the action, and briefly discuss, on the  
159 basis of information then available, the remaining items required to be submitted. The purpose  
160 of a draft environmental statement is to relate environmental considerations to the inception of  
161 the planning process, to inform the public and other public agencies as early as possible about  
162 proposed actions that may significantly affect the quality of the environment, and to solicit  
163 comments which will assist the Agency in the decision making process in determining the  
164 environmental consequences of the proposed action. The draft statement should resemble in  
165 form and content the environmental impact statement to be prepared after comments have been  
166 received; however, the length and detail of the draft environmental statement will necessarily  
167 reflect the preliminary nature of the proposal and the early stage at which it is prepared.

168 200.5-8. For any action for which the Agency determines that such statement is not required and  
169 which would take place in a special groundwater protection area, as defined in section 200.5-  
170 14(a) law, the Agency shall show how such action would or would not be consistent with the  
171 comprehensive management plan of the special groundwater protection program, as  
172 implemented by the State commissioner pursuant to article fifty-five of New York law.

173 200.5-9. The draft statement shall be filed with the Agency and shall be circulated to federal,  
174 state, regional and local agencies having an interest in the proposed action and to interested  
175 members of the public for comment, as may be prescribed by the Tribe pursuant to section  
176 200.6.

177 200.5-10. After the filing of a draft environmental impact statement the Agency shall determine  
178 whether or not to conduct a public hearing on the environmental impact of the proposed action.  
179 If the Agency determines to hold such a hearing, it shall commence the hearing within sixty days  
180 of the filing and unless the proposed action is withdrawn from consideration shall prepare the  
181 environmental impact statement within forty-five days after the close of the hearing, except as  
182 otherwise provided. The need for such a hearing shall be determined in accordance with  
183 procedures adopted by the Tribe pursuant to section 200.6. If no hearing is held, the Agency

184 shall prepare and make available the environmental impact statement within sixty days after the  
185 filing of the draft, except as otherwise provided.

186 200.5-11. Notwithstanding the specified time periods established by this law, the Agency shall  
187 vary the times so established herein for preparation, review and public hearings to coordinate the  
188 environmental review process with other procedures relating to review and approval of an  
189 action. An application for a permit or authorization for an action upon which a draft  
190 environmental impact statement is determined to be required shall not be complete until such  
191 draft statement has been filed and accepted by the Agency as satisfactory with respect to scope,  
192 content and adequacy for purposes of paragraph four of this section.

193 Commencing upon such acceptance, the environmental impact statement process shall run  
194 concurrently with other procedures relating to the review and approval of the action so long as  
195 reasonable time is provided for preparation, review and public hearings with respect to the draft  
196 environmental impact statement.

197 200.5-12. To the extent as may be prescribed by the Tribe pursuant to section 200.6, the  
198 environmental impact statement prepared together with the comments of public and federal  
199 agencies and members of the public, shall be filed with the Agency and made available to the  
200 public prior to acting on the proposal which is the subject of the environmental impact statement.

201 200.5-13. When the Agency decides to carry out or approve an action on the Sullivan County  
202 lands which has been the subject of an environmental impact statement, it shall make an explicit  
203 finding that the requirements of this section have been met and that consistent with the purposes  
204 for which the land is to be held in trust, social, economic and other essential considerations, to  
205 the maximum extent practicable, adverse environmental effects revealed in the environmental  
206 impact statement process will be minimized or avoided.

207 200.5-14. An environmental impact statement shall be prepared for any action found to have a  
208 significant impact on the special groundwater protection area.

209 (a) The “special groundwater protection area” shall mean recharge watershed area within  
210 a designated sole source area contained within counties having a population of one  
211 million or more which is particularly important for the maintenance of large volumes of  
212 high quality groundwater for long periods of time.

213 (b) Such statement shall meet the requirements of the most detailed environmental  
214 impact statement required by this section or by any such rule or regulation promulgated  
215 pursuant to this section.

## 216 **200.6. Rules and Regulations.**

217 200.6-1. As consistent with this law, the Tribe shall adopt rules and regulations consistent with  
218 6 NYCRR Part 617 implementing the provisions of this law as applicable.

219 200.6-2. The rules and regulations adopted by the Tribe specifically shall include:

220 (a) Definition of terms used in this law;

221 (b) Criteria for determining whether or not a proposed action may have a significant  
222 effect on the environment, taking into account social and economic factors to be  
223 considered in determining the significance of an environmental effect;

224 (c) Identification on the basis of such criteria of:

225 (1) Actions or classes of actions that are likely to require preparation of  
226 environmental impact statements;

227 (2) Actions or classes of actions which have been determined not to have a  
228 significant effect on the environment and which do not require environmental  
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230 impact statements under this law. In adopting the rules and regulations, the  
231 Agency shall make a finding that each action or class of actions identified does  
232 not have a significant effect on the environment;

233 (d) Typical associated environmental effects, and methods for assessing such effects, of  
234 actions determined to be likely to require preparation of environmental impact  
235 statements;

236 (e) Provision for the filing and circulation of draft environmental impact statements  
237 pursuant to section 200.5-5, and environmental impact statements pursuant to section  
238 200.5-12;

239 (f) Scope, content, filing and availability of findings required to be made pursuant to  
240 section 200.5-13;

241 (g) Form and content of and level of detail required for an environmental impact  
242 statement; and

243 (h) Procedures for obtaining comments on draft environmental impact statements,  
244 holding hearings, providing public notice of Agency decisions with respect to preparation  
245 of a draft environmental statement; and for such other matters as may be needed to assure  
246 effective participation by the public and efficient and expeditious administration of the  
247 law.

248 (i) A model assessment form to be used during the initial review to assist the Agency in  
249 its responsibilities under this law.

250 200.6-3. The Tribe shall, in accordance with Tribal law, adopt and publish such additional  
251 procedures as may be necessary for the implementation by them of this law.  
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