

**COOPERATIVE MANAGEMENT AGREEMENT
RELATING TO CUBA LAKE between
THE SENECA NATION OF INDIANS and
THE STATE OF NEW YORK**

The Seneca Nation of Indians and the State of New York hereby mutually agree as follows:

1. Parties. The parties to this Agreement are the Seneca Nation of Indians (“Nation”) and the State of New York (“State”). Rights and responsibilities of the State pursuant to this agreement may be assignable to or fulfilled by the Cuba Lake District, a municipality of the State created by chapter 263 of the laws of 1981, provided, however, that any assignment of responsibility shall not extinguish or diminish the State’s ultimate obligations under this Agreement.
2. Historic Levels of Lake. The parties agree that Cuba Lake shall be maintained at its historical levels and that the parties shall endeavor to ensure that the character and integrity of the Lake is maintained at all times.
3. Subject of Agreement. This Agreement is intended to address the respective roles of the parties in the operation and maintenance of Cuba Lake and to address the other related issues. It is understood that each party has various rights and responsibilities under law, and that the parties, as well as the District, will continue to communicate and work together for their mutual benefit.
4. Operation and Management. The State of New York through the Cuba Lake District operates and maintains Cuba Lake pursuant to chapter 263 of the laws of 1981, § 97-www of the State Finance Law (L. 2000 ch. 342), and under the Management Agreement between the State of New York and the Cuba Lake District dated November 19, 2001, subject to the following:
 - a. The Nation shall designate a representative(s) as its liaison to the Cuba Lake District, which may be a Seneca Nation Cuba Lake Commission. Such representative(s) shall receive notice of all meetings of the District, including its Board of Commissioners, and may attend and participate in all such meetings, except those meetings held in executive session pursuant to the laws of the State, so long as such sessions do not involve any matters directly relating to or impacting the Nation or its lands.
 - b. The Nation’s representative shall also receive notice of the District’s preliminary budget, as required by § 13 of chapter 263, as soon as it is available, but no less than ten days prior to the public hearing on such budget provided for by § 13(b), and may submit comment on such budget prior to or at such public hearing.

- c. With respect to the Cuba Lake Management Fund created by State Finance Law § 97-www, the State shall require that, as part of its process for preparing and submitting to the State its annual budget for the Fund, the Cuba Lake District shall meet with the Nation's designated representative(s) for the purpose of explaining, discussing, and receiving comments regarding the proposed budget. Such meeting shall be held on the first Thursday of February at the offices of the Cuba Lake District, or at such other time or place as agreed to by the Nation and the District. Upon any failure of the Nation to attend any such meeting, the District may reschedule such meeting but the failure of the Nation to attend any meeting shall not preclude the District from submitting or obtaining approval of its proposed budget. Upon the submission by the District of the District's proposed annual budget to the State for its review, the State shall examine such submission to ensure that, prior to such submission, the Nation was afforded the opportunity to meet with the District as provided herein, and if such opportunity has for any year not been afforded, the State shall not approve such budget until such time as such an opportunity has been afforded to the Nation.
- d. Independent of the above provisions, the Nation may, if it chooses, submit to the State comment on any proposed budget for the Cuba Lake Management Fund.
- e. The State shall require, as a condition of approval of the annual budget for the Cuba Lake Management Fund, that for all contracts funded by such budget relating to the operation and maintenance of the Lake, if such maintenance is to be performed in whole or in part on Nation land, the bidding process and contract shall require compliance with the Nation's Tribal Employment Rights Ordinance and applicable historic preservation laws, among others.

5. Operation and Maintenance of Spillway.

- a. The parties acknowledge that the spillway and outlet below the spillway are located on Nation land. The Nation, pursuant to an Easement Agreement dated March 17, 2005, has granted to the State an easement for the operation and maintenance of the spillway. Such Easement Agreement is acknowledged to establish a consensual relationship between the Nation and the State.
- b. Except in cases of emergency as described in ¶ 5(e), below, operation and maintenance of the spillway shall be subject to consultation with the Nation as provided for in ¶ 4 above. The routine operation of the spillway to raise and lower the water level of the Lake shall be conducted pursuant to a schedule provided to the Nation at the beginning of each calendar year.
- c. The State also assumes the obligation/right to maintain the outlet immediately below the spillway, subject to consultation with the Nation as described in § 4 above, including the right to keep the outlet free of debris and other obstructions.

- d. The objectives to be furthered by the State in the operation of the spillway shall include: maintaining Cuba Lake as a recreational resource; protecting property adjacent to and in near proximity to the Lake; and preventing flooding of lands and improvements of the Nation or improvements authorized by the Nation below the spillway, beyond any flooding that would occur in the absence of the spillway.
 - e. In cases where circumstances such as heavy rainfall, snow melt, or other extreme conditions require prompt action so as to make consultation impractical, the State may take emergency action to operate the spillway so as to best serve the objectives of ¶ 5(d) without prior consultation with the Nation. In the case of any emergency action which shall include additional release of water from the Lake, the State will, if possible, give the Nation advance notice of such release, and in all other cases of emergency action the State shall notify the Nation as soon as practical after such action has been taken.
6. Roads. Maintenance by the State of the existing roads within the claim area shall continue in accordance with existing or future agreements between the State and the Nation concerning other roads. Such maintenance shall be provided to the traveled way, including ditches, bridges, signage, guidelines, and culverts.
 7. Spillway Safety. The spillway shall be subject to inspection by the New York State Department of Environmental Conservation, or by any other successor state governmental agency, as its procedures may provide, and a copy of any report prepared by such agency, pursuant to its inspection shall be provided to the Nation.
 8. Access to Lake for Users. Cuba Lake shall remain open to the public through public access points off the Oil Spring Reservation. This recognition of access does not imply access to any uplands adjacent to the Lake, other than to lands of the State generally open to the public.
 9. Fishing Licenses. Fishing in the Lake shall be authorized with either a valid Nation or State fishing license, or by persons exempted from license requirements by State law, such as persons under the age of 16 and certain military personnel. For Nation members, individual enrollment cards shall serve as the Nation's fishing license. The parties shall coordinate their regulation of fishing to the greatest extent possible.
 10. Water Quality/Health Regulations Affecting the Lake. The parties agree that maintaining the quality of the water of the Lake is of prime importance. The Nation shall regulate sanitation systems on the Reservation in accordance with Indian Health Service or State law standards, whichever is more protective of lake water quality.
 11. Laws and Regulations. The parties shall enforce their respective laws and regulations within their jurisdictions. Nothing in this agreement is intended to or shall affect the Nation's ownership of or jurisdiction over the Oil Spring Reservation.

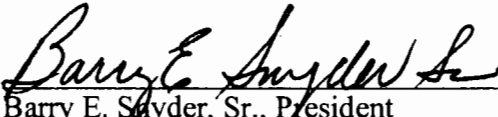
12. Dispute Resolution. This agreement shall be referenced and incorporated in the consent decree in *Seneca Nation of Indians v. New York, et al.*, 85-CV-411C (W.D.N.Y.), and shall be enforced as part of the consent decree, provided:
- a. In the event of any dispute, claim, question or disagreement, the parties shall first attempt to resolve disputes by informal discussions of the matter. Either party may provide written notice of a claim to the other. Each party shall appoint two representatives for purposes of such informal discussion in addition to their designated representatives under this agreement. In the event the parties are unable to reach a consensus for resolution of the matter within sixty days of notice of the claim, or such longer or shorter period as the parties may agree, the parties shall jointly choose a mediator to convene and conduct a mediation session to seek consensus on the issue. The cost of the mediation shall be borne equally by the parties. The designated representatives shall attend the mediation session. The parties may invite such other representatives and/or experts as may be needed to reach resolution of the matter. If consensus cannot be reached with the assistance of a mediator within sixty days of the appointment of the mediator, or such longer or shorter period as the parties may agree, or if the parties are not able to agree on the selection of a mediator, the parties may then seek enforcement of the consent decree.
 - b. If the court determines it has no jurisdiction over a particular claim or dispute, the parties agree that in that event only, the matter shall be resolved through arbitration. The following arbitration procedure shall apply until such time as the parties agree to a different arbitration procedure as part of the State/Nation Transportation Agreement or the parties otherwise agree on a different arbitration procedure.
 - 1) **Written Request.** Either party may request in writing that the matter be resolved through arbitration.
 - 2) **Arbitrator.** The parties shall agree on a single arbitrator within thirty days of the written request. The arbitration shall be conducted at a site convenient to both parties designated by the arbitrator utilizing such rules of arbitration as the parties may agree.
 - 3) **Arbitration Cost.** The cost of the arbitration shall be shared equally by the parties, unless the decision of the arbitrator shall specify otherwise, but the parties shall bear their own costs and attorneys' fees associated with their participation in the arbitration. All arbitration proceedings shall be conducted to expedite resolution of the dispute and minimize cost to the participants.
 - 4) **Remedies.** The arbitrator may impose any relief available in law or equity warranted under the circumstances.

- 5) Arbitration Decision. The decision of the arbitrator shall be final, binding and unappealable. Failure to comply with the decision within the time specified therein for compliance, or should a time not be specified, then forty-five days from the decision, shall be deemed a breach of this Agreement. Either party may bring an action in the United States District Court of the Western District of New York or, if that court declines jurisdiction, in any other court of competent jurisdiction, to enforce or seek review of the arbitrator's decision.

13. Definitions

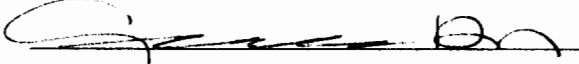
- a. "Spillway" shall mean the structure located at the southwest end of Cuba Lake, on the Oil Spring Reservation, by which the waters of the Lake are restrained and controlled and the level of the Lake raised or lowered, as conditions may require.
- b. "Outlet" shall mean the channel of 1000 feet by 50 feet, directly below the spillway, by which the overflow of the Lake is carried.
14. Notice to the Nation, except as provided for in ¶ 4 of this agreement, shall be made to the Nation's President, or to a person designated by the President to receive such notice.
15. Notice to the State, except as provided for in ¶ 4 of this agreement, shall be made to the Commissioner, New York State Office of General Services.
16. This Agreement shall be effective on the date settlement of the underlying action, *Seneca Nation of Indians v. State of New York, et al.*, 85-CV-411C, now pending in the United States District Court for the Western District of New York, becomes effective after approval by the Court.

Dated _____


Barry E. Snyder, Sr., President
Seneca Nation of Indians
12837 Route 438
Irving, NY 14081

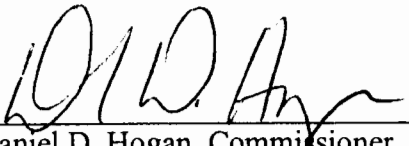
STATE OF NEW YORK)
 : SS.:
COUNTY OF)

On the 17th day of MARCH, in the year 2005 before me, the undersigned, personally appeared BARRY E. SNYDER SR., personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public, State of New York
Qualified in County of: Cattaraugus
My Commission Expires 5/19/07

GERALDINE HUFF
NOTARY PUBLIC, STATE OF NEW YORK
No. 01HU6092543
QUALIFIED IN CATTARAUGUS COUNTY
MY COMMISSION EXPIRES MAY 19, 2007

Dated MARCH 14, 2005

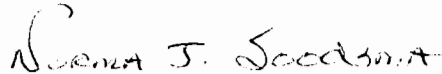

Daniel D. Hogan, Commissioner
New York State Office of General Services
Corning Tower, Empire State Plaza
Albany, NY 12242

STATE OF NEW YORK)

: SS.:

COUNTY OF Albany)

On the 14TH day of MARCH, in the year 2005 before me, the undersigned, personally appeared Daniel D. Hogan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public, State of New York
Qualified in County of: Mont.
My Commission Expires 2-28-07

NORMA J. SOODSMA
Notary Public, State of New York
County of Montgomery
#465749
Commission Expires 2-28-07

Approved:


Department of the Interior

Michael D. Olsen
Acting Principal Deputy Assistant Secretary, Indian Affairs