

Nancy Koon (adpce.ad)

From: Luke Morris <luke.morris@osagenation-nsn.gov>
Sent: Thursday, April 6, 2023 1:16 PM
To: Loretta Carstens (adpce.ad)
Cc: Colleen A. Bell; Andrea Hunter; Sarah O'Donnell; Water Draft Permit Comment
Subject: Human Burial Ground Actively Flooded by Paradise Valley Project____ EPA, ADEQ, Paradise Valley Waste Water Treatment Plant, Roland Cutoff Road, Pulaski County, Arkansas
Attachments: ADEQ_Cease and Desist_Human_Burials_Flooded.docx

Greetings,

Osage Nation has received new information regarding the **state and federally protected human burials downstream from Paradise Valley WWTP**, the project anticipating NPDES permitting from ADEQ. Without consultation with affiliated tribes prior to permitting approval, any further action by DEQ will further increase violations of multiple federal and state laws.

Osage Nation Historic Preservation Office anticipates receiving and reviewing NEPA and NHPA Section 106 notifications for the project, in addition to direct government to government consultation as stipulated by the aforementioned legislation that DEQ continues to violate. Currently, no consultation has been provided to Osage Nation as legally required in NHPA and NEPA legislation.

Attached, please see the **cease and desist letter** from Osage Nation to DEQ, in regards to the NPDES permit for Paradise Valley Wastewater Treatment Plant west of Roland, AR

Respectfully,

Luke Morris

Archaeologist, MA
Osage Nation Historic Preservation Office
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Starting October 1, 2022 the Osage Nation Historic Preservation Office is changing the project notification process. **All project notifications and reports must be emailed to s106@osagenation-nsn.gov** Include the Lead Agency, Project Name, and Project Number on the subject line.

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Osage Nation Historic Preservation Office

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Ms. Loretta Carstens,

My name is Luke Morris, an archaeologist with Osage Nation Historic Preservation Office. I provided comment yesterday on behalf of Osage Nation, for the third public hearing regarding EPA, ADEQ, Paradise Valley Waste Water Treatment Plant, Roland Cutoff Road, Pulaski County, Arkansas.

Yesterday afternoon, after the meeting, I visited and confirmed that current flood levels are directly inundating and adversely affecting a sacred Osage burial ground downstream from the project area. **If DEQ continues with the permitting for the aforementioned project and permits increased water discharge, direct violations to the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) legislation are imminent.** DEQ must preeminently consider effects to tribal properties, which requires consultation with associated tribes. The Osage Nation is one of those tribes, and is requesting DEQ to adhere to federal legislations and regulations.

Additionally, to avoid violating the Arkansas State Unmarked Burial Act (Act 753 of 1991, as amended) any affects to burials must be avoided. **Anyone knowingly desecrating or permitting the desecration of a burial ground commits a Class D felony on the first offense and a Class C felony for subsequent offenses.** It should also be noted that the Osage Site in question is also afforded protection under Arkansas' archaeological site protection laws (Arkansas Code 13-6-308), that specifies, "no person, natural or corporate, shall knowingly...deface, mutilate, destroy, or otherwise injure any artifact or archaeological site." Any action, permitted or otherwise, that would desecrate, disturb, or destroy such an Osage site must be avoided. This project will directly increase water discharges that erode, destabilize, and ultimately destroy Osage protected sites.

Until compliance with the aforementioned legislations is achieved, **Osage Nation demands DEQ cease and desist from all permitting considerations for this project.** Any further actions without consultation with tribes is also in direct violation of NHPA and NEPA. The adverse effects to sacred tribal historic properties must be accounted for through consultation. Osage Nation Historic Preservation Office is still waiting for consultation as requested with every public comment submitted for this project. Additionally, Osage Nation requests government to

government consultation on this project and requests proposed dates for an in person meeting at the headquarters of the Osage Nation in Pawhuska, OK.

Andrea A. Hunter, Ph.D.
Director, Tribal Historic Preservation Officer

Luke A. Morris
Archaeologist, MA