

Executive Summary

Introduction

In April 2005, the Oneida Nation of New York (the Nation) submitted a Trust Application to the Bureau of Indian Affairs (BIA) to transfer 17,370 acres of Nation owned property to the United States (U.S.) to be held in trust for the Nation (the Proposed Action). The 17,370 acres of land proposed for conveyance into trust are located in Madison and Oneida Counties, New York, within the exterior boundaries of the Nation's historic and cultural homeland and within the reservation as acknowledged by Federal treaties.

The BIA, a part of the U.S. Department of Interior (USDOI), is the Federal agency charged with reviewing and approving tribal applications, like the Nation's application, pursuant to the Indian Reorganization Act (25 U.S. Code (U.S.C.) § 465 and 25 Code of Federal Regulations (C.F.R.) Part 151 to take land into Federal trust status. The BIA is preparing this Environmental Impact Statement (EIS) in connection with its evaluation of the Trust Application. The BIA, as lead agency, has directed the preparation of this EIS and is responsible for its content. The Draft EIS has been prepared pursuant to the requirements of the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 *et seq.* and the Council on Environmental Quality Regulations for Implementing NEPA (40 C.F.R. 1500-1508), the USDOI Manual 516 DM 1-7 and 10, and the BIA NEPA Handbook 59 IAM 3-H (May 5, 2005). Under NEPA, "an environmental impact statement....shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment" (40 C.F.R. 1502.1).

Placing lands into trust is a real estate transaction which gives the U.S. title to the lands involved. The process begins with the submission of a Trust Application to the BIA; in this case the Nation submitted a Trust Application in April, 2005 to the BIA. If trust status is approved, the U.S. would hold legal title and the Nation would hold beneficial title and exercise tribal sovereignty over the lands. New York State and local governments were provided an opportunity to comment on the Nation's Trust Application with the last of three comment periods ending on March 1, 2006. New York State and local governments made extensive comments with an emphasis on regulatory jurisdiction and taxation issues and generally opposing trust status for Nation lands.

The BIA is preparing an EIS as part of an environmental review process for the Nation's Trust Application under NEPA. The BIA issued a Notice of Intent to prepare an EIS on

December 23, 2005. Subsequently, the BIA conducted scoping meetings on January 10 and 11, 2006 and received comments and input from governmental agencies, the public, and interested parties on the issues to be addressed in the EIS. A final Scoping Report was distributed and made available to the public, interested parties, and cooperating agencies on July 28, 2006. The next step in the environmental review process is to prepare a Draft EIS, which is this document. There will be a 45-day public comment period for the Draft EIS, which includes a public hearing. A Final EIS will then be prepared that will consider comments received on the Draft EIS.

The final step in the process will be to prepare a Record of Decision. Under Federal law, the conveyance of land to trust requires approval of the U.S. Secretary of the Interior. The general source of authority to acquire land for Indians (both tribes and individual Indians) is the Indian Reorganization Act of 1934 (IRA); the regulations are codified at 25 C.F.R. Part 151. The IRA gives the U.S. Secretary of the Interior the discretion to acquire land into trust for individual Indians and Federally-recognized Indian tribes. The IRA does not require the U.S. Secretary of the Interior to acquire any specific tract of land, any specific amount of land or to acquire any land at all. Similarly, the U.S. Secretary of the Interior is not required to select among only the alternatives evaluated in the Draft EIS. While these represent the range of reasonable alternatives and effects, others (including alternative combinations of individual parcels) could be developed that the U.S. Secretary of the Interior may base a decision upon. Any notice of a final decision to acquire land in trust status will be published in the Federal Register and in local newspapers.

Purpose and Need

The purpose of the Proposed Action is to help address the Nation's need for cultural and social preservation, expression and identity, political self-determination, self-sufficiency, and economic growth by providing at least a portion of an adequate tribal land base and homeland that:

- is subject to tribal sovereignty;
- allows for a diversified and productive economic base to support the Nation's financial integrity and the employment and financial well-being of its members;
- provides for the location of government and administrative buildings, housing for Nation members, agriculture, hunting, fishing, recreation, cultural, social, health and educational facilities, and burial grounds;
- protects Oneida historical and cultural sites under Oneida sovereignty and control;
- assures the preservation of a homeland for those Nation members located elsewhere in New York State and throughout the U.S.;
- is restricted against future alienation and immune from New York State and local taxation and regulation;

- allows the Nation to avail itself of Federal laws that apply to lands held in trust status including the Indian Gaming Regulatory Act; and
- permits further growth and consolidation of Nation lands.

The Oneida Nation of New York (the Nation) is a federally-recognized Indian tribe and a successor-interest to the historic Oneida, which fought with the colonists against the British in the Revolutionary War. In 1794, the U.S. acknowledged in the Treaty of Canandaigua an area in central New York State of about 300,000 acres to be the reservation and property of the Oneida. Thereafter, almost all of that land was alienated, mostly to the State of New York, which purchased the land in transactions usually not approved by Federal treaty or statute. As the Oneida lost access to their historic reservation, they experienced poverty and economic hardships including higher unemployment, lower household income, lower levels of education, inadequate health care, and limited home ownership. The Oneidas' inadequate land and economic base threatened the social, health, and cultural fabric necessary to ensure their continued existence in the State of New York.

A large number of individual Oneida left New York State and went to Wisconsin and Canada from the 1820's through 1840's. These emigrants formed two new tribes, the Oneida Tribe of Indians of Wisconsin and the Oneida of the Thames. Since the 1838 treaty of Washington, the U.S. has recognized the Oneida Tribe of Indians of Wisconsin as a separate and distinct Indian tribe with its own reservation and government in Wisconsin. Today, the Oneida Tribe of Indians of Wisconsin continues to exercise sovereignty over its reservation in Wisconsin and to establish the tribe's own membership criteria, which are different from those of the Nation and other Iroquois tribes in New York State. The Oneida Tribe of Indians of Wisconsin is included on the list of Federally-recognized tribes, published at 70 Federal Register 71194, 71196 (November 25, 2005). The Oneida of the Thames is a Canadian tribe and thus not on the list of Federally-recognized tribes published in the Federal Register. It does not have a government-to-government or trust relationship with the U.S. The Oneida of the Thames is recognized as an Indian tribe by the Government of Canada and has its own reservation and government in Canada.

For the Oneida that remained in New York State, by 1920, their land base had been reduced to a 32-acre parcel in Madison County. Beginning in 1987, the Nation reacquired possession of some of its previously alienated lands for varied purposes such as cultural, social, agricultural, hunting, government, and housing, and for diversified business and economic development. By 1995, the Nation had reacquired over 3,000 acres of its ancestral lands and by 2005 it had reacquired a total of 17,370 acres (The Nation also still owns the 32-acre parcel mentioned above). The Nation now has a member housing area known as the Village of the White Pines, the Ray Elm Children & Elders Center, and governmental infrastructure including offices for administration, environmental, and other self-regulation services; police; housing; social services; communications; and

transportation services all located on the reacquired lands. The Nation has constructed a major cultural center, the Shako:wi Cultural Center and has sought to reacquire other culturally significant lands such as existing cemeteries, traditional longhouse locations, and former village sites. The Nation has constructed a diversified business structure that includes convenience stores, a newspaper publishing enterprise, gasoline stations, and a major destination resort known as the Turning Stone Resort & Casino. The Nation also maintains agricultural lands, hunting areas, marinas, and a Black Angus cattle herd. In addition, the re-gathering of the Oneida and the proceeds of economic development have permitted the Nation to develop Oneida language programs, education programs, and social and cultural programs; legal and justice services; and medical programs including health insurance for Nation members and their families; job training programs; and child-care programs.

In 2005, the U.S. Supreme Court held in *City of Sherrill v. Oneida Nation*, 544 U.S. 197 (2005), that the Nation's reacquired lands were subject to taxation unless accepted into trust by the U.S. pursuant to 25 U.S.C. § 465. As a consequence of the U.S. Supreme Court's decision, New York State and local governments now seek to tax and regulate the reacquired lands on which the Nation plans to continue its social, political, and economic development. The State of New York and local governments have also asserted that the Nation's Turning Stone Resort & Casino cannot legally continue to operate in the absence of trust status for lands on which gaming is occurring. Even a decision to take casino lands into trust, however, will not necessarily resolve all ongoing disputes regarding the operation of the Turning Stone Resort & Casino.

The statutory authority for acquiring lands in trust status for Indian tribes is provided in the IRA, codified at 25 U.S.C. 465 with regulations at 25 C.F.R. Part 151. The Land Acquisition Policy presented in 25 C.F.R. Section 151.3 states that, "land may be acquired for a tribe in trust status when that land is within the tribe's reservation boundaries; or is already owned by the tribe; or the U.S. Secretary of the Interior determines that land acquisition is necessary to facilitate tribal self-determination, economic development or Indian housing." The U.S. Supreme Court has stated, "[t]he 60 years preceding the [IRA] had witnessed a calculated policy favoring elimination of Tribal institutions, sale of Tribal lands, and assimilation of Indians as individuals into the dominant culture." (*Duro v. Reina*, 495 U.S. 676, 691 (1990)). Through the IRA, the U.S. Congress intended to help tribes, like the Oneidas, reassemble an adequate tribal land base from which they could achieve economic and cultural self-sufficiency.

By virtue of the U.S. holding land in trust status for a Federally-recognized Indian tribe, the tribe is provided the following: exemption of the lands and conduct thereon from most New York State and local taxation and regulation; protection of the lands against alienation; the ability to exercise tribal sovereignty over the land; and the opportunity for the tribe to avail itself of Federal laws that apply to lands held in trust status, including,

but not limited to, the Indian Gaming Regulatory Act. These features of trust status are intended to foster and protect a tribe's culture and society, political self-determination, self-sufficiency, and economic growth.

Alternatives

The provisions of NEPA regulation 40 C.F.R. §1500.14, the USDOJ Departmental Handbook 516 DM 4.10, and the BIA NEPA Handbook (Part 6) collectively require that any EIS study and comparatively present the consequences of the Proposed Action, the No Action Alternative, and reasonable alternatives. A preferred alternative has not been identified by the BIA at this stage of the environmental review process. The BIA anticipates that a preferred alternative will be identified not later than the Final EIS.

The number of theoretically possible alternatives and group- parcel combinations is very large, with numerous permutations. If every possible combination of the 330 individual parcels comprising the 17,370 acres were analyzed, it would obscure, rather than identify, useful information. The resulting EIS would be unwieldy and would not serve to assist reviewers, decision makers or the public. The alternatives evaluated in the Draft EIS are configured in ways that, to varying degrees, meet the purpose and need of the Nation's Trust Application on the one hand and, on the other, address the interest of surrounding communities, which have expressed the desire that land taken into trust be compact and contiguous. The alternatives will assist the BIA and the affected communities to review the issues presented. At this time, the BIA considers the seven existing alternatives to be a reasonable range of alternatives for analysis in the Draft EIS. It is the hope of the BIA that comments on this Draft EIS, both those made in writing and also those made at a public hearing, not just address individual alternatives but also address whether particular properties or groups of properties should be taken out of or added to, an existing alternative. Ultimately, however, the BIA's efforts to address the Nation's land-into-trust application will involve a parcel-level review and determination. The BIA's final decision on the application may or may not, closely resemble one of the alternatives in the Draft EIS. The BIA must consider also the other factors listed in 25 C.F.R. Part 151, the regulations relevant to the IRA.

Under Federal law, the conveyance of land to trust requires approval of the U.S. Secretary of the Interior. The general source of authority to acquire land for Indians (both tribes and individual Indians) is the IRA; the regulations are codified at 25 C.F.R. Part 151. The IRA gives the U.S. Secretary of the Interior the discretion to acquire land into trust for individual Indians and Federally-recognized Indian tribes. The IRA does not require the U.S. Secretary of the Interior to acquire any specific tract of land, any specific amount of land or to acquire any land at all. Similarly, the U.S. Secretary of the Interior is not required to select among only the alternatives and parcel combinations evaluated in the Draft EIS. While these represent the range of reasonable alternatives and potential effects, others could be developed based upon comments or information received.

There are a total of seven alternatives under consideration and evaluated in this document. The selection of these alternatives reflects the public comments received during the scoping process and NEPA requirements in general. For reference purposes they have been designated as Alternatives A through G. In the preparation of the Nation's Trust Application, the BIA requested that the Nation group its lands according to use and priority. The Nation divided its 17,370 acres into three groups designated as Groups 1, 2, and 3 (the Groupings). Group 1 lands occupy about 3,428 acres and are generally associated with the Turning Stone Resort & Casino, the Nation's tribal gaming casino. Group 2 lands (6,475 acres) are generally associated with the Nation's government and cultural facilities, housing, health, education, and hunting as well as lands currently being used for Nation enterprises such as convenience stores, service stations, newspaper operations, marinas, and agriculture. Group 3 lands (7,467 acres) are generally undeveloped, active and inactive agriculture, and lands that are subject to a competing tribal claim by the Stockbridge-Munsee Community of Wisconsin, an Indian tribe located in the State of Wisconsin. It should be noted that these land groupings are not reflective of their value to the Nation but rather groupings of a functional nature. The Groupings have been used as a basis to define some of the seven alternatives.

There are varying amounts of reacquired land proposed for trust transfer among the alternatives and the disposition of the corresponding lands that would be omitted from trust status presents several taxation and jurisdiction scenarios for consideration. Under both Alternative A (Proposed Action – Group 1, 2, and 3 lands) and Alternative B (Phased Acquisition of 35,000 acres), the entire 17,370 acres of land currently owned by the Nation is proposed for conveyance into trust (this does not include the 32-acre parcel).

However, under Alternative C (Group 1 and 2 Lands), Alternative D (Group 1 Lands Only), Alternative E (Turning Stone Casino Gaming Floor Tax Lot), and Alternative F (Alternate Trust Land Grouping) the lands proposed for trust conveyance occupy less than the total of 17,370 acres. The lands that would be conveyed into trust in any of these alternatives would be under the sovereign control and regulatory jurisdiction of the Nation and they would not be subject to taxation. On the other hand, in these four alternatives and in Alternative G (No Action) there are reacquired lands that would be omitted from trust status, and the effects on those omitted lands are being evaluated within the following potential taxation/jurisdictional scenarios:

- **Property Taxes Paid (PTP)** – In this scenario, the property taxes related to the lands not entering trust would be paid by the Nation and those lands would be under the regulatory jurisdiction of the New York State and local governments.
- **Property Taxes Not Paid and Foreclosure (PTNP-F)** – In this scenario, the property taxes on the lands omitted from trust would not be paid by the Nation, and regulatory jurisdiction regarding those lands would be under New York State and local governments. These properties might be foreclosed upon by local governments or alienated by the Nation in advance of such foreclosure.

- **Property Taxes Not Paid and Dispute Continues (PTNP-DC)** – This scenario reflects essentially the current situation in that property taxes relevant to lands omitted from trust would not be paid by the Nation although the position of the New York State and local governments has been that tax payments would be obligatory. Similarly, the Nation would exercise jurisdiction on these lands while the New York State and local governments would dispute this regulatory control.
- **Casino Closes and All Enterprises Close (CC-AEC)** - Under Alternative G- No Action none of the Nation owned lands would be taken into trust, the Turning Stone Resort & Casino would be assumed to be an illegal gaming operation in New York State and it along with all SavOn gas stations and convenience stores and other enterprises which would be subjected to full taxation would cease operations. The Nation would not have sovereignty over any of its reacquired lands. It is the Nation's position that in this scenario it would not have revenue to pay taxes and all of the 17,370 acres might be alienated or foreclosed.

The above scenarios have been selected for purpose of analyzing the possible disposition of reacquired lands omitted from trust in the various alternatives. These four scenarios are not the only possible outcomes or choices for the Nation, but rather are intended to cover the range of possibilities. Assumptions regarding the selection of these scenarios and their possible outcomes are more fully explained in Section 2.4 Description of Alternatives.

The lands subject to trust conveyance under Alternatives A through F are all currently owned by the Nation and located within the exterior reservation boundary acknowledged by the 1794 Treaty of Canandaigua. All of these lands were purchased by the Nation on the open real estate market from willing sellers between 1987 and 2005. The following sections include descriptions of the current uses, facilities, and activities that comprise each of the alternatives. Figures depicting these alternatives are presented in Section 2.0 Alternatives.

Alternative A (Proposed Action) - Group 1, 2, and 3 Lands (17,370 Acres)

The Proposed Action (Alternative A) is the conveyance of 17,370 acres of land owned by the Nation in Oneida and Madison Counties, New York to the U.S. government to be held in trust. The Nation, as mentioned above, divided its lands according to use and priority into the following three groups:

- Group 1 lands (3,428 acres) are generally associated with the Turning Stone Resort & Casino, the Nation's tribal gaming casino, its associated lodging and restaurants, five golf courses, and related resort support facilities;
- Group 2 lands (6,475 acres) are generally associated with the Nation's government and cultural facilities, housing, health, education, and hunting as well as lands currently being used for Nation enterprises such as convenience stores, service stations, newspaper operations, marinas, and agriculture; and
- Group 3 lands (7,467 acres) are generally undeveloped, active and inactive agriculture, and include some lands in the Town of Stockbridge, Madison County,

that are subject to a competing tribal land claim by the Stockbridge-Munsee Community of Wisconsin, an Indian tribe located in the State of Wisconsin.

Collectively, the three Groups constitute the 17,370 acres of lands proposed for trust conveyance under Alternative A. Overall, Alternative A includes all Nation government services, all 98 Nation member residences, the Turning Stone Resort & Casino, 13 SavOn gas stations and convenience stores, three marinas, and all other Nation enterprises, 12,824 acres of agriculture and related operations, 4,227 acres for hunting and fishing lands, 3,106 acres of wetlands, and all Nation historic, archaeological, and cultural resources.

The land comprising the three Groups makes up approximately 6,594 acres or 1.5 percent of the total land area in Madison County (approximately 432,152 acres) and approximately 10,776 acres or 1.3 percent of the total land area in Oneida County (approximately 814,934 acres). The 17,370 acres represent approximately 1.4 percent of the land area in both counties.

Alternative B - Phased Acquisition of 35,000 Acres

In February 2002, New York State announced that it, the Nation, and Madison and Oneida Counties had agreed on the framework of a land claim settlement that included 35,000 acres to be held and governed by the Nation. To date, no settlement has been reached. However, an alternative that includes the potential acquisition of 35,000 acres in trust would be consistent with this settlement framework and could also be responsive to comments received during the scoping process that stressed the importance of a contiguous group of Nation lands that share a unified border or boundary, and others that expressed concerns over jurisdictional issues that could arise from interspersed Nation and non-Nation lands. As a result, the BIA has proposed Alternative B for evaluation in the Draft EIS. This alternative is intended to provide an analysis to determine potential consequences in the event that the earlier land claim settlement discussions (which contemplated a 35,000-acre area) between the Nation, New York State, and Oneida and Madison Counties are revived.

Accordingly, Alternative B would involve the conveyance of 35,000 acres of land by the Nation in Oneida and Madison Counties to the U.S. government to be held in trust. Alternative B would include the presently owned 17,370 acres described above under Alternative A and up to 17,630 additional acres that the Nation could purchase in the future within the reservation boundaries from willing sellers. The number or location of properties comprising the 17,630 acres has not been identified. Alternative B would represent 2.8 percent of the area of both Oneida and Madison Counties and would include the same government services, Nation member housing, the Turning Stone Resort & Casino and all enterprises, and the cultural and historic resources as Alternative A.

Alternative C - Group 1 and 2 Lands

With this alternative, Group 1 and 2 lands (approximately 9,903 acres) would be conveyed into trust, while Group 3 lands would be denied trust status. The Nation would be able in the future to re-apply to have some or all of the Group 3 lands placed in trust. Combined, the Group 1 and 2 lands that comprise Alternative C include the Turning Stone Resort & Casino, as well as lands associated with all the Nation's government and member services, 85 member residences, health and education centers, 5,675 acres of agriculture, 2,235 acres of hunting and fishing lands, 2,263 acres of wetlands and lands in current use for other Nation enterprises such as 13 SavOn gas stations and convenience stores, newspaper operations, and marinas. The proposed trust lands would also contain a large number, but not all, of the Nation's historic, archaeological, and cultural sites. Alternative C lands occupy approximately 7,986 acres or 1.0 percent of the land area of Oneida County and approximately 1,917 acres or 0.4 percent of the land area of Madison County. Collectively, the 9,903 acres represent approximately 0.8 percent of the total land area of both counties.

The lands omitted from trust in Alternative C are those that make up Group 3 which cover 7,467 acres or 0.6 percent of the total area of Madison and Oneida Counties. The current land use is predominately active and inactive agriculture and includes the Black Angus cattle farm along with hunting and fishing areas. These excluded lands contain 13 Nation member residences and are associated with a large number of culturally important archaeological sites. Under Alternatives C, D, E, and F the disposition of Nation lands omitted from trust would occur within the taxation/jurisdiction scenarios mentioned earlier. In the PTP scenario, taxes on the omitted lands would be paid. The lands would remain under Nation ownership, but New York State and local governments would have regulatory jurisdiction over them. In the PTNP-F scenario, taxes would not be paid and the omitted lands could be foreclosed or alienated. The lands would subsequently fall under New York State and local regulatory jurisdiction. In the PTNP-DC scenario, tax obligation and regulatory jurisdiction would remain in dispute between the Nation and the New York State and local governments as they are now.

Alternative D - Group 1 Lands Only

Alternative D would include only the lands that are part of Group 1, i.e., the lands that comprise the Turning Stone Resort & Casino and its related facilities. This alternative was developed in response to comments made during the scoping process to limit lands acquired in trust to the resort-casino complex and associated lands. With this alternative, 3,428 acres or 0.4 percent of Oneida County would be conveyed into trust. Alternative D includes two Nation member residences, the Turning Stone Resort & Casino, one SavOn gas station and convenience store, 1,757 acres of agricultural land, 843 acres of wetlands, and a small number of identified archeological sites.

Conversely, the 13,942 acres of land omitted from trust in Alternative D include all of the Nation's government services and affairs, all of the member program centers, and all of the Nation enterprises that are not directly linked to the Turning Stone Resort & Casino including 12 SavOn gas stations and convenience stores and the public access marinas. This excluded land has 96 of the total 98 Nation member residences, the important agricultural operations, all hunting and fishing lands, and the great majority of historic, archaeological, and cultural sites. As outlined above, under Alternatives C, D, E, and F the disposition of Nation lands omitted from trust would occur within the taxation/jurisdiction scenarios.

Alternative E - Turning Stone Casino Gaming Floor Tax Lot

Alternative E was created in response to suggestions presented in the scoping comments to place only the lands comprising the Turning Stone Resort & Casino proper into trust. The Turning Stone Resort & Casino is located on one tax lot (comprised of two parcels) in the Town of Verona, New York within Oneida County. Taken together with land and facilities beyond the casino itself, the two parcels comprising this alternative consist of approximately 225 acres.

The lands omitted from trust in Alternative E are those that make up the majority of Group 1 and all of Groups 2 and 3 as described above. Collectively these lands cover 17,145 acres and contains all of the Nation's government services and affairs, all of the member program centers, all of the Nation enterprises that are not directly within the casino gaming floor including the 12 SavOn gas stations and convenience stores and the public access marinas. The lands omitted from trust here actually include a number of the Turning Stone Resort & Casino facilities such as portions of the golf courses, lodging, and parking lots. This excluded land contains all Nation member residences and is associated with the great majority of the Nation's culturally and archaeologically important localities in the area. The current land use is predominately active and inactive agriculture and includes the Black Angus cattle farm along with all hunting and fishing areas and the wetland mitigation site. Again, under Alternatives C, D, E, and F the disposition of Nation lands omitted from trust would occur within the taxation/jurisdiction scenarios.

Alternative F - Alternate Trust Land Grouping

Alternative F is based upon combining all of the parcels contained in Group 1 with additional parcels from Groups 2 and 3 to facilitate the formation of a more compact and contiguous group of trust lands. This alternative responds, in particular, to statements from local governments suggesting that a more compact and contiguous trust land grouping than the Proposed Action (Alternative A) should be considered. With this alternative, parcels derived from Group 1, 2, and 3 lands have been identified and assembled into a more consolidated alternate group for conveyance into trust.

Alternative F, which totals 11,986 acres, encompasses an area of about 10 by 14 miles; in comparison Alternative A is 17,370 acres and spreads over a roughly 20 by 20 mile area.

Thus while Alternative F occupies 69 percent of the Alternative A land acreage, it is arrayed across a region that is only 35 percent of that of the Proposed Action. This area was the location of the principal Oneida villages from 1635 to 1850 as they developed along Oneida Creek, including major villages documented at the Sterling site and at Kanonwalohale (Oneida Castle) which is the home of the Oneida stone. These are among the many significant Oneida archaeological sites that were considered to be an important cultural compactness factor in formulating Alternative F. Functionally, Alternative F includes the majority of Nation member housing, most of the Nation's enterprises, all the Nation's government facilities, and all of the properties containing member services. The parcels within Alternative F are for the most part located within a reasonably short driving time of around 15 minutes from each other.

Overall, Alternative F includes all Nation government services, 80 Nation member residences, the Turning Stone Resort & Casino, 13 SavOn gas stations and convenience stores, two marinas, all other Nation enterprises, 7,978 acres of agriculture and related operations, 3,294 acres for hunting and fishing, 2,537 acres of wetlands, and the great majority of historic, archaeological, and cultural resource sites. Alternative F covers approximately 9,834 acres or 1.2 percent of the land area of Oneida County and approximately 2,152 acres or 0.5 percent of the land in Madison County. Collectively, the 11,986 acres represent about 1.0 percent of the total land area of both counties.

The lands omitted from trust in Alternative F cover 5,384 acres, which is predominately active and inactive agriculture and includes the Black Angus cattle farm along with some hunting and fishing areas. This land contains 18 Nation member residences and is associated with culturally important localities including 46 identified archaeological sites. Under Alternatives C, D, E, and F the disposition of Nation lands omitted from trust would occur within the taxation/jurisdiction scenarios.

Alternative G - No Action

Under the No Action Alternative, the U.S. would not acquire any lands from the Nation to be held in trust, including the lands associated with the Turning Stone Resort & Casino. Under the CC-AEC scenario, it is assumed that New York State's position on the legality of the casino and on the tax free sales of tobacco and fuel, absent trust status for associated lands, would prevail. As a result, the Nation's gaming, tobacco, and fuel businesses would be shut down resulting in a loss of over 5,000 jobs. The disposition of the Nation's 17,370 acres of land under this scenario of the No Action Alternative would be as follows:

- Turning Stone Resort & Casino – The Turning Stone Resort & Casino would cease operations. The associated Turning Stone Resort & Casino lodging and other related supporting resort facilities would also close and the \$300 million-plus debt service would create a debilitating financial burden on the Nation.

- Other Nation enterprises – The other Nation enterprises would not be viable business operations and with the added property, sales, and excise taxes would be closed.
- Nation government services and affairs – The respective localities for all of these services would not be under the Nation’s sovereign control and the Nation would not be able to fund them. As a result, many of the Nation’s functions and services would be discontinued or severely limited. The Nation’s health, family services, recreation, and cultural enrichment programs would rely heavily on Federal funding to sustain themselves.
- Nation member housing – The Nation’s housing program would rely primarily on Federal funding to sustain it. Lands upon which the current 98 Nation member residences are located would not be under the Nation’s sovereign control.
- Cultural and historic resources – The Nation’s current cultural, historic, and archaeological resources would not be under the Nation’s sovereign control and its corresponding protection. The Nation has been active in preserving, protecting, and revitalizing tribal culture through cultural education, site protection, and creation of a comprehensive repository for materials that have historic importance to the Nation.
- Hunting and fishing, wetlands mitigation, and agriculture – Hunting and fishing lands, the wetlands mitigation bank, and the Nation’s agricultural operations would not be under the Nation’s sovereign control.

Overall, under this CC-AEC scenario the Nation’s means of economic self-reliance and financial support of its services and programs would be eliminated. The Nation’s 17,370 acres of land would not be regulated under its policies or its ordinances. Instead, all these lands would be under the jurisdiction and regulation of local and New York State authorities. Since the Nation would generate little revenue, it could not continue to meet its tax obligations and eventually all of its reacquired lands might be foreclosed or alienated. As this occurs, the Nation’s government services and programs would discontinue in their current form and would rely largely upon Federal funding, if they continued at all. The Nation’s land base would be eliminated except for the 32 acres remaining from the 1794 Treaty of Canandaigua.

In the PTP scenario, the taxes related to the 17,370 acres would be paid and those lands would be under the regulatory jurisdiction of New York State and local governments. The Turning Stone Resort & Casino might continue to operate, and all other Nation enterprises including the SavOn gas stations and convenience stores and marinas may continue functioning. However, real estate taxes would be paid on all Nation lands. The New York State and local governments would have regulatory jurisdiction over all Nation member residences, the important Oneida cultural and archaeological localities, the wetland mitigation bank, the Black Angus cattle farm, all SavOn gas stations and convenience stores, the public marinas, the Turning Stone Resort & Casino, and all the land where facilities housing the Nation’s government services and member programs are

located. The Nation would not have sovereign control over any of its reacquired lands, although it may continue to support its services and programs with revenues generated from its enterprises.

In the PTNP-F scenario, taxes would not be paid and regulatory jurisdiction of the 17,370 acres would be under the New York State and local governments. Since taxes would not be paid on any lands, there might be an eventual foreclosure or alienation of the 17,370 acres. As this occurs all of the Nation businesses would be shut down, and its government services and programs would cease in their current form and function relying heavily upon Federal funding. The Nation's reacquired land base would be eliminated except for the 32 acres which are not part of the trust application.

In the PTNP-DC scenario, taxes would not be paid and the lands would continue to be regulated by the Nation. The Turning Stone Resort & Casino along with the all of the other Nation enterprises would continue operations. The Nation's government services and member programs, all cultural and historic sites, and all member housing would be maintained on lands regulated by the Nation. Essentially, the current situation would persist with the tax obligation and the jurisdiction of the Nation's 17,370 acres remaining in dispute.

Alternatives Eliminated From Further Study

The following alternatives suggested during the scoping process were reviewed by the BIA but eliminated from further study in the Draft EIS:

- Negotiated Settlement Agreement
- Resolution of Land Claim Alternative
- Legislative Solution Alternative
- Land Conveyance in Fee Status Alternative
- Creation of a New York State Reservation or Trust Alternative

It was concluded that these alternatives are impractical, unreasonable, infeasible or too speculative to warrant analysis as NEPA alternatives or, to warrant delay in considering the Nation's trust application.

Potential Environmental Effects

The following summary of potential environmental and socioeconomic effects is presented with respect to Alternatives A through G. In this section the significant, notable and/or most salient consequences of all of the alternatives are highlighted. Not all of the resource or value categories are discussed because a number of them would exhibit no effect or a less than significant effect due to the implementation of any of the alternatives. In the conveyance of lands into trust status, there are no direct effects to the physical environment since no ground disturbance occurs. The resource categories that would not

be significantly affected by any alternative include topography, soils, geology, surface water, groundwater, wetlands, air quality, wildlife, vegetation, ecosystems/biological communities, agriculture, some broader social conditions, mining, recreation, transportation, wilderness, noise, light, visual, public health and safety, and growth inducement. On the other hand, the various proposed trust transfers within the respective alternatives may have more significant effects on New York State, the local communities or the Nation. These consequences are most evident in the resource or value categories that include land use planning and zoning, historic and archaeological resources, cultural values, local community and Nation government services, employment and income, housing and demographics, taxation, hunting and fishing resources, regulatory jurisdiction, and environmental justice. With regard to regulatory issues, although Nation laws and ordinances could change in the future, the BIA may base its review and analysis of the consequences of the Proposed Action and other alternatives in light of the existing Nation laws and ordinances.

The Draft EIS analyzes the extent to which the purpose and need would be met under each alternative in order to inform the decision maker of the potential consequences of a decision on the applicant (the Nation) and the broader human and physical environment. For each alternative discussed below, a respective conclusion is made on the degree to which that alternative would meet the purpose and need expressed by the Nation. However, the BIA has the discretion to select an alternative that does not meet or partially meets the purpose and need expressed by the applicant, including the No Action Alternative.

Effects of Alternative A: Proposed Action (17,370 acres)

Under Alternative A, 17,370 acres of reacquired land owned by the Nation would be conveyed into trust. Alternative A contains all 98 Nation member residences, all government services, the Turning Stone Resort & Casino, all business enterprises, 12,824 acres of agriculture, 4,227 acres for hunting and fishing, and 3,106 acres of wetlands. Alternative A contains all lands of social, cultural, and religious significance as well as all historical and archaeological resources (157 identified archaeological sites). Cultural and historic properties would have the added Federal protection of the Archaeological Resources Protection Act (ARPA) (archaeological sites on public and Native lands) and the Native American Graves Protection and Repatriation Act (NAGPRA) (Native American graves) and be under Nation stewardship. Alternative A also includes all of the cultural facilities owned by the Nation such as the Shako:wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, traditional croplands plus cultural service departments. All current government programs and services would be maintained on the trust lands including health, education, housing, recreation and cultural activities, day care, and public safety.

Existing uses of Nation trust lands would continue. There would be no reacquired lands in Alternative A that would be omitted from trust and possibly subject to foreclosure or alienation.

The current condition is that Nation-owned lands are interspersed within their respective local communities, to a greater or lesser degree, with non-Nation lands. Alternative A results in a future condition where all 17,370 acres of Nation lands are held in trust status by the Federal government. The trust lands would be similarly interspersed with non-Nation lands as in the current condition. New York State and local governments have asserted that the interspersed trust lands would have an adverse effect on their ability to cohesively plan and uniformly enforce zoning, land use or environmental regulations. In most areas there is general consistency in uses of Nation and non-Nation lands, and trust lands would be regulated under the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance that require development to be compatible with adjoining uses and under Nation policies to protect environmental resources and public health and safety (Oneida Indian Nation Environmental Protection Ordinance and Oneida Indian Nation Amended Health and Safety Ordinance). However, New York State and local governments would not have regulatory control over the lands once held in trust by the Federal government for the Nation. However future changes (if any) in the existing land use planning or zoning regulations by either the Nation or local governments, if uncoordinated, could result in inconsistent application.

In 2005, the Turning Stone Resort & Casino employed 3,779 people and the SavOn gas stations and convenience stores employed 279 people. In the next five years, a modest increase would be expected in Turning Stone Resort & Casino jobs of about 50 per year due to an increase in visitors (increases 3.1 percent annually) to a total of 4,033. SavOn gas stations and convenience stores and other Nation enterprise jobs (65) would remain constant. Current Nation government employment would increase from 488 to 505. Total Nation employment would be expected to grow from 4,611 to 4,882. There would also be a modest net increase in jobs at non-Nation local businesses from 912 (\$31.9 million in earnings) to 963 (\$33.6 million), due to multiplier spending by the Nation and its employees plus added jobs and earnings from off-site visitor spending. Under Alternative A, there would be no significant change of employee in-migration in the next five years due to limited employment growth and the high proportion of local hiring. The estimated increase of school aged children over five years would be insignificant because of the small total population change.

Further, under Alternative A lands would be exempt from property taxes which would have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$2.7 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The Nation has paid taxes to the Cities of Oneida and to Sherrill along with grants and payments to local governments for a total of \$38.5 million

since 1995, although these payments may not be continued in the future. It is expected that the Nation will continue to pay local governments for services provided. Nation employees paid an estimated \$5.6 million in local property taxes in 2005 and the Nation withheld and remitted \$3.4 million in New York State income taxes from its employees in 2005. In addition, the multiplier effect of the Nation and employee spending stimulated \$7.3 million of New York State personal income, business, and sales taxes and another \$1.16 million in local sales taxes. All these figures would increase with the anticipated job growth of the Nation enterprises. In 2011 estimates are \$5.96 million of employee property taxes, \$3.57 million in income taxes, \$7.74 million in multiplier New York State taxes, and \$1.22 million in local sales taxes. Finally, the Nation paid \$2.2 million and \$2.8 million, respectively, to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino that would be expected to continue in the future.

Under Alternative A, there would be no direct physical adverse effects on community facilities and services related to police protection, fire protection, schools or medical care/emergency services. No significant increase in the demand for police or fire protection or emergency medical assistance would be expected due to the relatively minimal increases in Turning Stone Resort & Casino visitors, new employees, and Nation population. Current and ongoing service agreements and cooperative service efforts, such as the Mutual Aid Plan, would be expected to continue. The Town of Vernon Fire Department has contested the adequacy of its service agreement with the Nation and this issue remains unresolved. Local and New York State Police have criminal jurisdiction and enforcement power on all Nation lands regardless of whether they are in trust or not.

Implementation of Alternative A would have no disproportionate adverse effect on any low-income or clearly identified minority community. However, there could be potential effects on the resources of the Nation which as a local Native American community is subject to an environmental justice assessment. Conveying Nation lands into trust would have a beneficial effect on the Nation allowing for its self-governance and control of lands considered by the Nation as ancestral homeland and within the reservation.

Alternative A is the Nation's Proposed Action and would secure a land base held in trust status for implementing its expressed purpose and need.

Effects of Alternative B: Phased Acquisition of 35,000 Acres

Under Alternative B the largest area of land, 35,000 acres, would be conveyed into trust in comparison to all the other alternatives. In this alternative the 17,370 acres of existing Nation lands would enter trust along with an additional unidentified 17,630 acres. As mentioned, Alternatives A and B contain the most proposed trust land area in all use categories, the only ones that would accommodate in trust all Nation lands containing social, cultural, and religious sites as well as the important historical and archaeological resources, and they would also include every significant cultural asset and facility owned

by the Nation. It is likely that under Alternative B there would be an increase in many of the above land uses as the additional 17,630 acres are conveyed into trust. All existing uses on the 35,000 acres of Nation trust lands would generally continue. There would be no lands in Alternative B that would be omitted from trust and possibly subject to alienation or foreclosure.

The interspersing of Nation with non-Nation lands could be exacerbated in Alternative B because of the larger amount of properties involved even though the intent would be to purchase future properties from existing land owners that are in the vicinity of existing Nation lands. The New York State and local governments have asserted that this would create an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Over a number of years the Nation would be expected to acquire properties under tribal sovereignty that would be reasonably contiguous to current property groupings, thereby minimizing jurisdictional issues between Nation and non-Nation land. In addition, development would be regulated under the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance that requires future uses to be in harmony and compatibility with adjoining uses. Similarly, the jurisdiction over environmental regulations on all 35,000 acres of Nation lands that enter trust would be under the Nation's governance including its policies to protect environmental resources and public health and safety (Oneida Indian Nation Environmental Protection Ordinance and the Oneida Indian Nation Amended Health and Safety Ordinance).

As in Alternative A, the total Nation employment in the next five years would be expected to grow from 4,611 to 4,882. There would be the same net increase in jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children would be insignificant because of the small total population change. Under Alternative B, all current government programs and services would be maintained and would likely be increased to accommodate the additional 17,630 acres of trust lands.

Under Alternative B, 35,000 acres would be exempt from property taxes which would be an adverse effect on the local government revenues. The annual property tax on these lands is estimated at \$5.4 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would be the same as Alternative A. In Alternative B, all these figures would increase similarly to Alternative A with the anticipated job growth of the Nation enterprises and as more land is acquired to reach the total of 35,000 acres. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

Under Alternative B, there would be neither direct physical adverse effects nor significant increases in demand on community facilities and services related to police protection, fire protection, schools, or medical care/emergency services. All current and ongoing service agreements and cooperative service efforts would continue. Effects related to environmental justice would be as described above under Alternative A.

In anticipation of the needs of future generations, Alternative B would secure a larger land base than owned at present for implementing the Nation's expressed purpose and need.

Effects of Alternative C: Group 1 and 2 Lands

Under Alternative C, 9,903 acres would be conveyed into trust. Alternative C contains 85 Nation member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 5,675 acres of agriculture, 2,235 acres for hunting and fishing, and 2,263 acres of wetlands. Alternative C would accommodate in trust a relatively large part of Nation lands that contain social, cultural, and religious practices as well as historical and archaeological resources (100 sites accounting for 64 percent of the identified archaeological sites). Alternative C also includes the majority of significant cultural assets and facilities owned by the Nation. All existing uses on the 9,903 acres of Nation trust lands would generally continue.

Under Alternative C, 7,467 acres comprising Group 3 lands would be omitted from trust. These lands include important agricultural activities such as the Heifer Hotel, crop/livestock rentals, the Black Angus herd, and the Three Sisters traditional cropland. Also, there are some significant archaeological sites that would be excluded from trust and not have the added Federal protection of the ARPA and the NAGPRA. Under the PTNP-F scenario, all of these omitted lands could be subject to possible alienation or foreclosure. These omitted lands could be retained under the PTP scenario with the archaeological sites receiving state regulation and NHPA 106 protection. This would be similar under the PTNP-DC scenario, with the regulatory jurisdiction in dispute between the Nation and the New York State and local governments.

New York State and local governments have asserted that the interspersing of Nation with non-Nation lands would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Development would be regulated under the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance that require future uses to be in harmony and compatible with adjoining uses. Similarly, the jurisdiction over environmental regulations on all lands that enter trust would be under the Nation's governance including its policies to protect environmental resources and public health and safety (Oneida Indian Nation Environmental Protection Ordinance and Oneida Indian Nation Amended Health and Safety Ordinance). Under either the PTP or PTNP-F scenarios, all lands omitted from trust would be regulated under the jurisdiction of New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and

land use regulations. Under the **PTNP-DC** scenario, the current situation would be maintained whereby regulatory jurisdiction is disputed between the Nation and the New York State and local governments.

In Alternative C, the total Nation employment in the next five years would be expected to grow from 4,611 to 4,874, just slightly less than in Alternatives A and B. There would be an increase of 47 jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children would be insignificant because of the small total population change. Under the **PTP** or **PTNP-DC** scenarios, there would be the same modest increases in employment. Under the **PTNP-F** scenario, Group 3 lands might be foreclosed or alienated with the loss of agricultural jobs and 13 current nation residences. With 7,467 acres of property entering the real estate market there would likely be a reduction in property values in the region.

Under Alternative C as in Alternatives A and B, all current government programs and services would be maintained. A similar result would be expected under the **PTP** and **PTNP-DC** scenarios. Under the **PTNP-F** scenario, Group 3 lands could be alienated and all government programs and related spending associated with operations on those lands would be severely curtailed or discontinued.

Under Alternative C, 9,903 acres would be exempt from property taxes which would be an adverse effect on the local government revenues. The annual property tax on these lands is estimated at \$2.4 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would be the same as Alternative A. All these figures would increase with the anticipated job growth of the Nation enterprises. In 2011, estimates are \$5.95 million of employee property taxes, \$3.57 million in income taxes, \$7.73 million in multiplier New York State taxes, and \$1.22 million in local sales taxes. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

Under the **PTP** scenario, the property taxes on Group 3 lands (estimated at \$264,000) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the Group 3 lands eventually may be alienated or foreclosed and the new owners would be responsible for paying the property taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or to foreclose for non-payment of property taxes.

Under Alternative C, there would be neither direct physical adverse effects nor significant increases in demand on community facilities and services related to police protection, fire protection, schools or medical care/emergency services. All current and ongoing service

agreements and cooperative service efforts would continue. Under the **PTP** scenario, the omitted Group 3 lands tax revenue would support community services directly and all Nation enterprises and activities could utilize those services. Under the **PTNP-F** scenario, Group 3 lands eventually could transfer ownership and new owner(s) could provide the tax revenue to support community services. Under the **PTNP-DC** scenario, taxation and jurisdiction of Group 3 lands would remain unresolved with the Nation service agreements continued.

Conveying 9,903 acres of Nation lands into trust under Alternative C would be a beneficial effect on the Nation allowing for its self-governance and control of lands considered by the Nation as ancestral homeland and within the reservation. Lands omitted from trust would not be provided the increased Federal protection of the ARPA and the NAGPRA. The potential alienation or foreclosure of these lands (under the **PTNP-F** scenario) including the loss of 13 Nation member residences as well as the loss of hunting and fishing lands, agriculture, and cultural resources would be an effect predominately borne by Native American populations and the Nation.

Alternative C would secure a land base less than the Proposed Action for implementing the Nation's expressed purpose and need.

Effects of Alternative D: Group 1 Lands Only

Under Alternative D, 3,428 acres would be conveyed into trust. Alternative D contains two Nation member residences, no government services, the Turning Stone Resort & Casino and all business enterprises, 1,757 acres of agriculture lands, no hunting and fishing lands, and 843 acres of wetlands. Alternative D would not include any of the Nation lands that support social, cultural, and religious practices and only a few archaeological resources (six sites or only four percent of the identified archaeological sites). Alternative D includes none of the significant cultural assets and facilities owned by the Nation. All existing uses on the 3,428 acres of Nation trust lands would generally continue.

Under Alternative D, 13,942 acres comprising Group 2 and 3 lands would be omitted from trust. These lands include 12 out of 13 SavOn gas stations and convenience stores, the marinas, 96 Nation member residences, all government services, all hunting and fishing lands, all wetlands, the great majority of cultural and archaeological lands, and important agricultural activities such as the Heifer Hotel, crop/livestock rentals, the Black Angus herd, and the Three Sisters traditional cropland. Under the **PTNP-F** scenario, all of these omitted lands would be subject to possible alienation or foreclosure. These omitted lands could be retained in the **PTP** scenario with the archaeological sites receiving state regulation and NHPA 106 protection. This would be similar in the **PTNP-DC** scenario with the regulatory jurisdiction in dispute between the Nation and the New York State and local governments.

The New York State and local governments have asserted that the interspersing of Nation with non-Nation lands as in Alternative D would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Development would be regulated under the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance that require future uses to be in harmony and compatibility with adjoining uses. Similarly, the jurisdiction over environmental regulations on all lands that enter trust would be under the Nation's governance including its policies to protect environmental resources and public health and safety (Oneida Indian Nation Environmental Protection Ordinance and Oneida Indian Nation Amended Health and Safety Ordinance). Under either the **PTP** or **PTNP-F** scenario, all lands omitted from trust would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the **PTNP-DC** scenario, the current situation would be maintained whereby regulatory jurisdiction is disputed between the Nation and the New York State and local governments.

Under Alternative D, the total Nation employment is expected to decrease in the short term from 4,611 to 4,328, with immediate job losses at SavOn gas stations and convenience stores (231), other enterprises (10), and the Nation government (42). In the next five years the growth of the Turning Stone Resort & Casino would create an additional 253 jobs, offsetting the short term drop in employment at the SavOn gas stations and convenience store, other enterprises, and the government. As a result, a net loss of 30 Nation jobs would be expected. There would also be a short term loss of 53 jobs at non-Nation local businesses that would be largely replaced by growth in the next five years. With job loss, there would correspondingly be some minor employee out-migration in the next five years. An increase of school aged children in the next five years would be insignificant. A similar result would be expected under the **PTP** or **PTNP-DC** scenarios as in Alternative A. Under the **PTNP-F** scenario, Group 2 and 3 lands might be alienated or foreclosed and there could be a loss of 283 Nation enterprise jobs including those at 12 SavOn gas stations and convenience stores, the marinas, and agricultural operations. There may also be a significant loss of all current 96 Nation member residences with a resulting potential out-migration. With 13,942 acres of property entering the real estate market there would likely be a reduction in property values in the region.

In Alternative D under the **PTP** and **PTNP-DC** scenarios, all government programs would be continued and spending would be based on enterprise revenues. Under the **PTNP-F** scenario, Group 2 and 3 lands might be alienated or foreclosed and all government programs and related spending would be severely curtailed or discontinued as they are located in facilities on the lands omitted from trust. Overall spending may also decrease based on loss or decline of SavOn gas station and convenience store revenues.

Under Alternative D, 3,248 acres would be exempt from property taxes which would have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$1.0 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would be slightly less than Alternative A. In 2011, estimates are \$5.6 million of employee property taxes, \$3.33 million in income taxes, \$7.28 million in multiplier New York State taxes, and \$1.15 million in local sales taxes. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

Under the **PTP** scenario, the property taxes on the omitted Group 2 and 3 lands (\$1.7 million) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the Group 2 and 3 lands eventually may be alienated or foreclosed and the new owners would be responsible for paying the property taxes. The loss of jobs would result in a reduction of income, property, and multiplier effect related taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or foreclose for non-payment of taxes.

Under Alternative D, there would be neither direct physical adverse effects nor significant increases in demand on community facilities and services related to police protection, fire protection, schools or medical care/emergency services. All current and ongoing service agreements and cooperative service efforts would continue. Under the **PTP** scenario, the omitted Group 2 and 3 land tax revenue would support community services directly and all Nation enterprises and activities could utilize those services. Under the **PTNP-F** scenario, Group 2 and 3 lands might be foreclosed or alienated and the new owners could provide the tax revenue to support community services. Under the **PTNP-DC** scenario, taxation and jurisdiction of Group 2 and 3 lands would remain unresolved with the Nation service agreements continued.

Conveying 3,248 acres of Nation lands into trust would benefit the Nation's self-governance and control of a relatively small portion of its total lands. However, the 13,942 acres of land omitted from trust would not have the additional Federal protection of the ARPA and the NAGPRA. The potential alienation of the 13,942 acres (under the **PTNP-F** scenario) including the potential loss of 96 Nation member residences, government services and programs, hunting and fishing lands, agriculture, and the majority of cultural resources would be an effect predominately borne by Native American populations and the Nation.

Alternative D would secure an insufficient land base for fulfilling the Nation's expressed purpose and need.

Effects of Alternative E: Turning Stone Casino Gaming Floor Tax Lot Only

Under Alternative E, the least amount of currently owned Nation lands (one tax lot of approximately 225 acres) would be conveyed into trust. Alternative E contains no member residences, no government services, part of the Turning Stone Resort & Casino, a single SavOn gas station and convenience store, no other Nation business enterprises, no agricultural land, no hunting and fishing lands, and no wetlands. Alternative E would not accommodate in trust any of the Nation lands that contain social, cultural, and religious sites or archaeological resources (none of the identified archaeological sites). Alternative E includes none of the cultural facilities owned by the Nation. The existing gaming uses on the 225 acres would continue.

Under Alternative E, 17,145 acres of Nation lands would be omitted from trust. These lands include all Nation member housing, all government services, all hunting and fishing lands, the cultural and archaeological lands, all important agricultural activities, and many Nation businesses including 12 SavOn gas stations and convenience stores, and the marinas. Under the PTNP-F scenario, all of these omitted lands could be subject to possible alienation or foreclosure. These omitted lands could be retained under the PTP scenario with state/local regulation. This would be similar under the PTNP-DC scenario with the regulatory jurisdiction in dispute between the Nation and the New York State and local governments.

In Alternative E, there would be minimal interspersing of Nation trust lands and non-Nation lands and an insignificant effect on cohesive planning efforts or uniform regulatory control. The 225 acres that enter trust would be under the Nation's governance. Under either the PTP or PTNP-F scenario, all lands omitted from trust would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the PTNP-DC scenario, the current situation would be maintained whereby regulatory jurisdiction is disputed between the Nation and the New York State and local governments.

Under Alternative E, 3,406 jobs at the Turning Stone Resort & Casino would continue but there would be an overall decrease of 373 jobs at this facility and 231 jobs at the SavOn gas stations and convenience store. There would also be a reduction of 59 Nation government jobs. The total Nation employment would fall from 4,611 to 3,938. There would also be 127 jobs lost at non-Nation local businesses. Overall 800 jobs would be lost under Alternative E. This would result in an estimated out-migration of 190 people. Under the PTNP-F scenario, 17,145 acres of land might be alienated or foreclosed and there would be a loss of all associated Nation enterprise jobs including those at 12 SavOn gas stations and convenience stores, marinas, and agricultural operations. In addition, all 98 current Nation member residences may be lost. With 17,145 acres of property entering the real estate market there would likely be a reduction in property values in the region.

In Alternative E and under the **PTP** and **PTNP-DC** scenarios, all government programs would be continued and spending would be based on enterprise revenues. Under the **PTNP-F** scenario, 17,145 acres of land might be alienated or foreclosed and all government programs and related spending would be severely curtailed or discontinued as they are located in facilities on the lands omitted from trust. Overall spending may also decrease based on a loss or decline of revenues at the SavOn gas stations and convenience stores.

Under Alternative E, only the 225 acre Turning Stone Resort & Casino property would be exempt from property taxes. The annual property tax on this land involves a contested assessment of the Turning Stone Resort & Casino. Local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would continue. In Alternative E, however, all these figures would decrease with the anticipated loss in jobs. In 2011, estimates are \$4.81 million of employee property taxes; \$2.9 million in income taxes; \$6.33 million in multiplier New York State taxes; and \$1.00 million in local sales taxes. The payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

Under the **PTP** scenario, the property taxes on 17,145 acres (\$2.7 million) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the 17,145 acres might be alienated or foreclosed and the new owners would be responsible for paying the property taxes. The loss of 933 jobs would result in a reduction of income, property, and multiplier effect related taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or foreclose for non-payment of taxes.

Under Alternative E, there would be neither direct physical adverse effects nor significant increases in demand on community facilities and services related to police protection, fire protection, schools or medical care/emergency services. Some of the current and ongoing service agreements and cooperative service efforts extended to this tax lot would continue. Under the **PTP** scenario, the omitted land tax revenue would support community services directly and all Nation enterprises and activities could utilize those services. Under the **PTNP-F** scenario, it is assumed that omitted lands would eventually transfer ownership and new owners would provide the tax revenue to support community services. Under the **PTNP-DC** scenario, taxation and jurisdiction of the omitted land would remain unresolved with Nation service agreements and support continued.

Conveying 225 acres of lands into trust would allow the Nation self-governance of a only a minor fraction of its total reacquired land base and the reservation. However, the 17,145 acres of land omitted from trust would not have the added Federal protection of the ARPA and the NAGPRA. The potential alienation of the 17,145 acres (under the

PTNP-F scenario) including the potential loss of 98 Nation member residences, government services and programs, hunting and fishing lands, agriculture, and all cultural resources would be an effect predominately borne by Native American populations and the Nation.

Alternative E would secure an insufficient land base for fulfilling the Nation's expressed purpose and need.

Effects of Alternative F: Alternate Trust Land Grouping

Under Alternative F, 11,986 acres would be conveyed into trust. Alternative F contains 80 Nation member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 7,978 acres of agriculture, 3,294 acres for hunting and fishing, and 2,537 acres of wetlands. Alternative F would accommodate in trust a great majority of Nation lands that support social, cultural, and religious practices as well as historical and archaeological resources (111 sites accounting for 71 percent of the identified archaeological sites). Cultural and historic properties would have the added Federal protection under the ARPA and the NAGPRA, and would be under Nation stewardship. Alternative F includes most of the significant cultural assets and facilities owned by the Nation including the Shako:wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, plus cultural service departments. All existing uses on the 11,986 acres of Nation trust lands would generally continue.

Under Alternative F, 5,384 acres of land would be omitted from trust. These lands include important agricultural activities such as the Heifer Hotel, crop/livestock rentals, the Black Angus herd, and the Three Sisters traditional cropland. Also, there are some significant archaeological sites that would be excluded from trust and not have the added Federal protection of the ARPA and the NAGPRA. Under the PTNP-F scenario, all of these omitted lands may be subject to possible alienation or foreclosure. These omitted lands could be retained under the PTP scenario, with the archaeological sites receiving only state/local regulation and NHPA 106 protection. This is similar under the PTNP-DC scenario with the regulatory jurisdiction in dispute between the Nation and the New York State and local governments.

New York State and local governments have asserted that the interspersing of Nation with non-Nation lands as in Alternative F would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Development would be regulated under the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance that requires future uses to be in harmony and compatibility with adjoining uses. Similarly, the jurisdiction over environmental regulations on all lands that enter trust would be under the Nation's governance including its policies to protect environmental resources and public health and safety (Oneida Indian Nation Environmental Protection Ordinance and Oneida Indian Nation Amended Health and Safety Ordinance). Under either the PTP or PTNP-F

scenarios, all lands omitted from trust would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the PTNP-DC scenario, the current situation would persist whereby regulatory jurisdiction is disputed between the Nation and the New York State and local governments.

In Alternative F, the total Nation employment in the next five years is expected to grow from 4,611 to 4,872, slightly less than Alternatives A and B. There would be an increase of 46 jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children in the next five years would be insignificant because of the small total population change. Under the PTP or PTNP-DC scenarios, there would be the same modest increases in employment. Under the PTNP-F scenario, 5,384 acres of land might be alienated or foreclosed and there would be a potential loss of agricultural related jobs and 18 current Nation residences. With 5,384 acres of property entering the real estate market there would likely be a reduction in property values in the region.

Under Alternative F as in Alternatives A, B, and C, all current government programs and services would be maintained including health, education, housing, recreation and cultural activities, day care, and public safety. A similar result would be expected under the PTP and PTNP-DC scenarios. Under the PTNP-F scenario, omitted lands might be alienated or foreclosed and all government programs and related spending associated with operations on those lands would be severely curtailed or discontinued.

Under Alternative F, 11,986 acres of trust land would be exempt from property taxes which would have an adverse effect on local government revenues. The annual property tax on these lands is estimated at over \$2.5 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would be similar to Alternative A. In Alternative F as in Alternatives A, B, and C, all these figures would increase with the anticipated job growth of the Nation enterprises. Finally, the payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

Under the PTP scenario, the property taxes on 5,384 acres (estimated at \$200,000) would be paid. Under the PTNP-F scenario, taxes would not be paid and the 5,384 acres might be alienated or foreclosed and the new owners would be responsible for paying the property taxes. Under the PTNP-DC scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or to foreclose for non-payment of property taxes.

Under Alternative F, there would be neither direct physical adverse effects nor significant increases in demand on community facilities and services related to police protection, fire protection, schools or medical care/emergency services. All current and ongoing service agreements and cooperative service efforts would continue. Under the **PTP** scenario, the omitted land tax revenue would support community services directly and all Nation enterprises and activities could utilize those services. Under the **PTNP-F** scenario, excluded lands may transfer ownership and new owners could provide the tax revenue to support community services. Under the **PTNP-DC** scenario, taxation and jurisdiction of omitted land would remain unresolved with the Nation service agreements and support continued.

Conveying 11,986 acres of Nation lands into trust would be a beneficial effect on the Nation allowing for its self-governance and control of lands considered ancestral homeland and within the reservation. However, the 5,384 acres of land omitted from trust would not have the archaeological protection of the ARPA and the NAGPRA. The potential alienation of the 5,384 acres (under the **PTNP-F** scenario) including the potential loss of 18 Nation member residences, hunting and fishing lands, agriculture, and some cultural resources would be an impact predominately borne by Native American populations and the Nation.

Alternative F secures a land base less than the Proposed Action for implementing the Nation's expressed purpose and need.

Effects of Alternative G: No Action

Under Alternative G, none of the Nation's 17,370 acres of land would be conveyed into trust. Under the **CC-AEC** scenario, it is assumed that New York State would successfully assert that the Turning Stone Resort & Casino is illegal and it along with all of the other Nation enterprises would cease operations. This would create an extreme financial burden for the Nation. Under Alternative G, member residences, government services, the Turning Stone Resort & Casino, other Nation business enterprises, agricultural lands, and hunting and fishing lands would not be conveyed into trust. Alternative G would not accommodate in trust any of the Nation lands that support social, cultural, and religious practices or contain archaeological resources. None of the significant cultural facilities owned by the Nation including the Shako:wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, traditional croplands or cultural service departments would be placed into trust.

Under the **CC-AEC** or **PTNP-F** scenarios, all of the 17,370 acres of Nation lands could be subject to alienation or foreclosure. These lands could be retained under the **PTP** scenario under state/local regulation. This would be similar under the **PTNP-DC** scenario, with the regulatory jurisdiction in dispute between the Nation and the New York State and local governments.

The Nation's self-governing policies would not apply to the 17,370 acres. Under the CC-AEC, PTP or PTNP-F scenarios, all these lands would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the PTNP-DC scenario, the current situation would persist whereby regulatory jurisdiction is disputed between the Nation and the New York State and local governments.

Under the CC-AEC or PTNP-F scenarios, there would be a significant loss of all 3,779 jobs at Turning Stone Resort & Casino and all 279 jobs at the SavOn gas stations and convenience stores with the associated loss in earnings. All jobs at other Nation enterprises (65 jobs) and most of its government jobs (433) would be terminated; without the multiplier related income at local businesses associated job growth would not occur and 895 jobs would be lost. There would be a significant total loss of jobs of 5,451 of which 4,714 are residents of Madison and Oneida Counties, causing related unemployment impacts there. Out-migration is estimated to be 1,293 people including 336 school aged children. Also, under the CC-AEC or PTNP-F scenarios, 17,370 acres of land might be alienated or foreclosed and all 98 current Nation member residences may be lost, a significant adverse effect. With 17,370 acres of property entering the real estate market there would likely be a reduction in property values in the region. Under the PTNP-DC and PTP scenarios, jobs and earnings would be expected to increase as in Alternative A.

Under the CC-AEC or PTNP-F scenarios, none of the government programs and services would be maintained including health, education, housing, recreation and cultural activities, day care, and public safety. The programs and services are all located on lands that could be alienated and no longer supported by revenues from the Nation's enterprises. These programs and Nation members would have to rely heavily on Federal funding. Under the PTP and PTNP-DC scenarios, all government programs would continue and spending would be based on enterprise revenues.

Under the CC-AEC or PTNP-F scenarios, the Turning Stone Resort & Casino and all Nation enterprises would cease operations, taxes could not be paid and eventually all 17,370 acres of Nation lands might be alienated or foreclosed. The loss of jobs and vendor contracts would further reduce tax revenues. The loss of Nation enterprise jobs would result in a reduction of state income tax withholdings and declines in employee property and local sales taxes. The multiplier effect of the Nation and employee spending would decrease significantly. In 2011, estimates are \$0.07 million of employee property taxes, \$0.09 million in income taxes, \$0.16 million in multiplier New York State taxes, and \$0.03 million in local sales taxes. The annual payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would be discontinued. None of the Nation's reacquired 17,370 acres would be exempt from property tax rolls but new owners would be responsible for

paying property taxes (\$2.7 million). The PTP and PTNP-DC scenarios would be similar in effect to Alternatives A, B, C, and F.

Under the CC-AEC or PTNP-F scenarios, all service agreements and support of community facilities and services would cease. New owners of Nation lands could provide property tax revenues needed to support community services. Under the PTP scenario, tax revenues would be collected that support community services and all Nation enterprises and activities would utilize those services. Under the PTNP-DC scenario, taxation and jurisdiction of omitted land would remain unresolved with Nation service agreements and support continued.

Under the CC-AEC or PTNP-F scenarios, none of the Nation's reacquired lands (17,370 acres) would enter trust. The Nation would not exercise self-governance and control of any reacquired lands located within their ancestral homeland and reservation. There would be a significant adverse effect on the Nation limiting its income producing capability and impacting the viability of its social, health, and cultural programs. All 17,370 acres of land omitted from trust would not have the added Federal protection of the ARPA and the NAGPRA. The potential alienation of the 17,370 acres (under the PTNP-F or CC-AEC scenarios) including the potential loss of 98 Nation member residences, government services and programs, hunting and fishing lands, agriculture, and all cultural resources would be an effect predominately borne by Native American populations and the Nation.

Alternative G would not secure any land base with Federal trust status for fulfilling the Nation's expressed purpose and need.

Mitigation

The NEPA defines mitigation as “avoiding the impact altogether by not taking a certain action or parts of an action, minimizing impacts by limiting the degree or magnitude of the action and its implementation, rectifying the impact by repairing, rehabilitating, or restoring the affected environment, reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action, compensating for the impact by replacing or providing substitute resources or environments” (40 C.F.R. 1508.20). Accordingly, mitigation measures have been identified where feasible to address specific potential effects.

The Nation's activities, programs, and relationships with the surrounding communities demonstrate a pre-existing pattern and practice of mitigating the types effects potentially resulting from the trust action. This is particularly notable regarding the key issues of taxation and regulatory jurisdiction. On the fiscal side, the Nation's various payments to local governments and the positive economic benefits from the Nation's enterprises serve to mitigate fiscal effects that have been identified. Overall, the fiscal revenues generated

by the Nation's enterprises exceed the amounts that would be received in taxes without those revenues. With respect to potential regulatory effects, the Nation has implemented and administered its own regulatory scheme, which covers a broad spectrum of environmental, public health and safety, and related issues. Moreover, trust lands would continue to be subject to Federal oversight, environmental laws and regulations. The Nation has consulted with New York State and local jurisdictions informally or on a government-to-government basis on matters of mutual concern. The Nation is committed to the continuance of these policies and programs along with cooperative dialogue in the broad sense of mitigating adverse effects potentially resulting from the proposed conveyance of its lands into trust.

Mitigation measures pertaining to individual resources and value categories are described briefly below, with more details provided in Section 5.0 Mitigation.

Taxes

The adverse effect of foregone property taxes on the local government revenues has been and would continue to be offset by service agreements and the property, sales, and income taxes directly and indirectly generated by the Nation and its employees. Using 2005 as a benchmark, this would include:

- \$5.6 million in local property taxes paid by Nation employees;
- \$3.4 million in New York State income taxes remitted from its employees;
- \$7.3 million in New York State tax payments for personal income, business, and sales taxes along with \$1.16 million in local sales tax revenues for Madison and Oneida Counties all stimulated by Nation vendors and employees;
- \$2.2 million and \$2.8 million, respectively, to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino which would be expected to continue in the future; and
- Continued payments to local governments through community service agreements.

Overall, the Proposed Action provides more revenues for the New York State and local governments than would be available without the Nation's enterprises. The total revenues produced by the Nation agreements and associated employee and multiplier taxes in 2005 was about \$24.2 million while its costs were around \$6 million, resulting in a beneficial net effect to New York State and local governments of over \$18 million. Refer to Section 3.7 Socioeconomic Conditions, Section 4.7 Socioeconomics, and Section 5.0 Mitigation for more detailed analyses.

Regulatory Jurisdiction

The potential effects on the New York State and local governments in applying environmental laws uniformly and equitably over an entire geographic area would be mitigated by the environmental protection provided under Federal laws that would continue to regulate trust lands. In addition, the land would also be regulated by Nation

laws and ordinances, many of which have been in place for nearly 10 years, covering building construction, land use, public safety, hunting and fishing, historic preservation, and environmental protection. Through those policies, the Nation remains committed to standards of environmental protection, conservation, and public health and safety. The Nation has further demonstrated this commitment in past collaborative actions with New York State and local municipalities. The combination of Federal and Nation regulatory oversight and the ongoing practice of consultation and coordination between the Nation, Federal, New York State, and local agencies could serve as a mechanism to mitigate the effects on the environmental, cultural, and socioeconomic environment stemming from Nation lands held in trust status.

Land Use, Planning, and Zoning

The potential effect on the ability of local governments to cohesively plan and to uniformly enforce their zoning and land use regulations would be different in each alternative. In many cases, Nation lands comprise a very small percentage of the entire area of a given community, which minimizes the geographic extent of the impact. In most areas, the Nation's current land uses are consistent with local zoning and land use plans in the surrounding communities. In addition, the Nation has adopted and followed the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance that mandate that no existing land uses can be substantially changed or altered unless a Land Use Permit is obtained after the Nation considers compatibility, location, and environmental impact. This and the Nation's history of cooperation with and support of local community infrastructure and programs could provide the basis for effective collaborative land use planning for establishing consistency across non-Nation and Nation lands. A continuation of these practices could serve to mitigate the potential effects expressed by the New York State and local governments.

Surface Water

In alternative scenarios where the golf course irrigation water would no longer be reclaimed, the most likely mitigation, which would be the responsibility of the new owner, would be to close the reuse system and process the wastewater through the City of Oneida Sewage Treatment Plant which has the treatment capacity to accommodate the additional flow and load.

Under scenarios whereby the Turning Stone Resort & Casino and its attendant facilities would increase demand on water supply and wastewater, the Nation has demonstrated its past support and commitment to surface water protection by funding the expansion of the wastewater treatment plant; requiring that contractors conducting construction activities at the Nation agree to adhere to the conditions of the New York State Department of Environmental Conservation State Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Construction Activities; funding studies, in cooperation with local governments, in order to locate new sources of water; and funding 100 percent

of a new water and sewer line and a water tower in the Town of Verona. In addition, the Nation has implemented numerous ongoing water conservation measures to avoid or mitigate the effects of increasing water demands in their operations. The Nation would continue to develop and support water resource protective actions in the future.

Employment

Mitigation for the loss of jobs that would occur in various alternative scenarios in the form of unemployment compensation and support would become the responsibility of New York State and local governments.

Traffic

Area roadways in the vicinity of Nation facilities and enterprises would accommodate projected increases of traffic, although a drop in service and some delay may occur during peak periods at the intersection of NYS Route 365 and I-90 Exit 33. Possible improvements have been identified which include:

- Reduction of speed limits on NYS Route 365;
- An additional lane exiting I-90 at NYS Route 365; and
- Increasing the capacity at the I-90 toll booths.

Historic, Cultural, and Archaeological Resources

The potential effect on the ability of New York State and local governments to regulate and protect these resources would be mitigated by the continued application of the National Historic Preservation Act to lands in trust and their added Federal protection under the ARPA and the NAGPRA. Further, the Nation has enacted its own Oneida Indian Nation Cultural, Historical or Archeological Resources Ordinance and has implemented a program to preserve and protect those sites as well as to archive important artifacts and data recorded from those sites. The Nation has also worked with the State Historic Preservation Office at the New York State Office of Parks, Recreation and Historic Preservation whereby it signed a cooperative agreement on March 18, 2004 to share archeological site file information. A combination of the Federal and Nation regulations, the Nation's proactive program to preserve its archaeological sites, and a continuation of the cooperation between the Nation and New York State could serve to mitigate potential effects on these resources and their regulatory protection once in trust.

Government Services

Under the PTNP-F or CC-AEC scenarios of Alternatives D, E or G, all of the Nation's government programs would be severely curtailed or cease altogether because they are located in facilities on lands that might be alienated or foreclosed. Other than trust land conveyance, substantial Federal funding and support would become necessary and might not be sufficient to mitigate significant adverse effects on the Nation and its members.

The Nation's increased demand for healthcare, emergency medical services, fire protection, and other community supplied services would not be enough to require construction of new or expanded facilities or to affect current response times for emergency services. Local and New York State Police have complete criminal jurisdiction and enforcement power on all Nation lands regardless of whether they are in trust or not. In the past, the Nation has supported the expansion of community services by providing funding to the local municipalities in a variety of ways, and current and ongoing service agreements and cooperative service efforts would be expected to continue. With regard to mitigating the effects of adding Native American students to local schools, there are three types of dedicated financial assistance that are available to public school systems to offset the effects of the tax-exempt status of Indian lands that may have relevance in New York: the Federal Impact Aid Program; the Indian Education Act; and the New York State Indian Aid for Public Schools.

The maintenance of service agreements and their modification, if necessary, to accommodate growth along with a continuation of cooperation between the Nation and the municipal service providers would further mitigate an increase in demand for community services.

Lifestyle and Cultural Values

The BIA has not identified additional impacts to the lifestyle and cultural values of Nation or surrounding communities not already discussed in Section 4.7 Socioeconomics, Section 4.8 Resource Use Patterns, and Section 4.9 Other Values. Effects of the trust action on the surrounding community can be found in these sections. Accordingly, the BIA has not identified mitigation measures specific to the lifestyle and cultural values of the Nation or the surrounding community.