

## 4. Environmental Consequences

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### 4.1 Introduction

This section describes the environmental consequences or potential effects that could result from implementation of the Proposed Action or any of the alternatives, as described in Section 2.0 Alternatives. If implementation of the Proposed Action or one of the alternatives is expected to result in a consequence, then a determination as to the potential for that effect to be significant is presented consistent with NEPA regulations. The analysis presented in this section has been prepared in accordance with Council on Environmental Quality's (CEQ) NEPA Regulations Section 1502.16 and the BIA's NEPA Handbook. The BIA NEPA handbook considers an environmental determination to be valid for five years. The following sections address potential consequences relevant to the respective resource categories:

| Section | Resource Category           |
|---------|-----------------------------|
| 4.2     | Land Resources              |
| 4.3     | Water Resources             |
| 4.4     | Air                         |
| 4.5     | Living Resources            |
| 4.6     | Cultural Resources          |
| 4.7     | Socioeconomic Conditions    |
| 4.8     | Resource Use Patterns       |
| 4.9     | Other Values                |
| 4.10    | Environmental Justice       |
| 4.11    | Growth-Inducing Effects     |
| 4.12    | Unavoidable Adverse Effects |

The evaluation of environmental consequences is a critical component of the overall evaluation of the Proposed Action and the alternatives. The evaluation of environmental consequences serves as the framework for comparing and contrasting both the environmental consequences of each alternative, including the Proposed Action and the No Action Alternative.

The proposed Federal action would not result in ground disturbance and would not have direct effects on physical resources since there are no activities to impact those resources. Indirect effects on physical resources, which are separated by time or distance, depend on the nature of activities that may occur during routine land management by the Nation and those controls that are in place to manage those activities. As demonstrated throughout this section, the Nation has a long history of self-governance and a commitment to environmental protection and public health and safety. To date, there is no record or

evidence that the Nation is unable to protect the physical resources on their lands. Implementation of the Proposed Action or any of the trust alternatives would allow the continued operation of the Turning Stone Resort & Casino thereby allowing projected growth associated with casino operations to occur over time. This growth includes an increase in casino visits and an associated increase in casino employment.

It is important to consider the potential environmental consequences within the context of the purpose and need for the Proposed Action. The Nation's need for the Proposed Action is described in detail in Section 1.2 Purpose and Need for the Proposed Action and is summarized here to help place the impact assessment within the proper context. 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 and preserving a 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 and health and educational facilities; and burial grounds;
- protects Oneida historical and cultural sites under Nation 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 is 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.

As documented in this section, the proposal to convey Nation lands to the Federal government to be held in trust may result in potential environmental consequences that could affect specific physical resources, the jurisdiction of both the State of New York and local municipalities, and the rights of the Nation and its people. With regard to regulatory issues, although Nation laws and ordinances could change in the future, the BIA must analyze the consequences of the Proposed Action and other alternatives in light of the existing Nation laws and ordinances.

#### **4.1.1 Determination of Significance**

Reasonable and applicable significance criteria for each resource category are presented at the beginning of each subsection of this section. CEQ regulations for implementing NEPA

(40 C.F.R. 1508.27) define significance of effects in terms of context and intensity, as indicated below:

- Context - This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.
- Intensity - This refers to the severity of impact. The following should be considered in evaluating intensity:
  - Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
  - The degree to which the proposed action affects public health or safety.
  - Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas.
  - The degree to which the effects on the quality of the human environment are likely to be highly controversial.
  - The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
  - The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
  - Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
  - The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources.
  - The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
  - Whether the action threatens a violation of Federal, New York State or local law or requirements imposed for the protection of the environment.

Significance criteria are more precisely defined by accepted standard practices, environmental compliance criteria or in the statutes or ordinances of specific jurisdictional entities.

### 4.1.2 Impact Assessment

Consistent with 40 C.F.R. 1508.16, the environmental consequences section of the Draft EIS provides the scientific and analytic basis for comparing the effects of the proposed action and other alternatives, including the No Action Alternative. 40 C.F.R. 1508.8 defines effects or impacts, as follows:

- Direct effects are caused by an action and occur at the same time and place.
- Indirect effects are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

Cumulative impacts are defined under 40 C.F.R. 1508.7 as “The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes them.”

The CEQ interprets this regulation as referring only to the “cumulative impact of the direct and indirect effects of the proposed action and its alternatives when added to the aggregate effects of past, present and reasonably foreseeable future actions” (Council on Environmental Quality, 2005). As described in the USEPA’s *Consideration of Cumulative Impacts in EPA Review of NEPA Documents* “cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time” (United States Environmental Protection Agency, 1999). The USEPA also notes that “while a broad consideration of resources is necessary for the adequate assessment of cumulative impacts, the analysis should be expanded for only those resources that are significantly affected” (United States Environmental Protection Agency, 1999). The consideration of cumulative effects has been done in accordance with the USEPA guidelines.

The CEQ also provides guidance with regard to the consideration of past activities in assessing cumulative effects (Council on Environmental Quality, 2005). Specifically, past actions should be considered as part of a cumulative impact analysis to the extent that they are “relevant to reasonably foreseeable significant adverse impacts.” The CEQ guidance also notes “...agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving in the historical details of individual past actions.” The cumulative impact assessment provided in this section will generally consider past conditions through the aggregate present conditions except in those instances where specific past actions inform the assessment and prediction of reasonably foreseeable future actions or conditions. Taxation/Jurisdictional Scenarios

As described in Section 2.0 Alternatives, there are varying amounts of 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. The taxation/jurisdictional scenarios are:

- **Property Taxes Paid (PTP)** – In this scenario, the property taxes relevant to the lands omitted from trust would be paid by the Nation and those lands would be under the regulatory jurisdiction of New York State and local governments.
- **Property Taxes Not Paid and Foreclosure (PTNP-F)** – In this scenario, the property taxes relevant to 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 taxes relevant to lands omitted from trust would not be paid by the Nation although the position of New York State and local governments has been that tax payments would be obligatory. Similarly, the Nation would continue exercising 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)** - Finally, 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 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 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 purposes of analysis of the possible disposition of 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.

#### **4.1.3 Ongoing and Planned Nation Development Projects and Activities**

The Nation has indicated (correspondence of June 22, August 18, and October 18, 2006) to the BIA that it does have current improvements and activities in various stages of completion or slated for construction in the near future, mainly related to Turning Stone Resort & Casino amenities. For projects like the clubhouse and anaerobic digester (Angus cattle farm, Stockbridge, New York) the Nation does not have designs or construction contracts. Projects and activities that are currently underway or reasonably foreseeable will be completed prior to and regardless of any decision made in the future concerning the Proposed Action, No Action or any of the other alternatives being evaluated in the EIS. The completion of these future projects assumes that the Turning Stone Resort & Casino will remain in operation and not cease operations for reasons other than a decision on the Nation's Trust Application. These projects will be constructed, in whole or in large part, prior to the projected timing of the BIA's decision on the Nation's Trust Application. The BIA and Oneida Nation maintain that these projects are not related to the proposed land

trust action. Nonetheless, the operations of these projects are included for evaluation of potential cumulative effects:

- Turning Stone Resort & Casino – The present physical structure, features, and footprint of the Turning Stone Resort & Casino are the result of completing the implementation of a nearly decade-long master plan by the Nation. The overarching development objective has been to establish and sustain a Premier Destination Resort, making positive enhancements to meet that goal. The business is now servicing a debt of over \$300 million for the investments in creating what is now the Turning Stone Resort & Casino. Projects underway or slated for near term construction include:
  - A 15-18,000 square-foot Nightclub addition to the existing casino building (underway - anticipated completion spring 2007);
  - Redecorating of the casino interior;
  - Landscaping attractions to the outside circle and entrance to the Tower Hotel and Winter Garden at Turning Stone Resort & Casino (anticipated completion by summer 2007);
  - Changes to the Turning Stone Resort & Casino internal road system (anticipated completion by summer 2007);
  - A new comfort station at the Atunyote golf course (scheduled to begin in fall 2006 - anticipated completion late fall 2006 or early spring 2007);
  - Relocation of the driving range (anticipated completion by summer 2007);
  - Four new indoor tennis courts located within a dome and Four outdoor tennis courts with lighting (scheduled to begin fall 2006 - anticipated completion by summer 2007);
  - A 12,000 square-foot clubhouse connecting the existing golf dome with a new tennis dome to house racquet and squash courts (scheduled to begin spring 2007);
  - A Native American sweat lodge behind the spa building (underway - anticipated completion October 2006);
  - A 60 x 60-ft grass helicopter pad (no fueling station or storage and lighting only activated by pilot upon take-off/landing) adjacent to an existing Team Member parking lot at the Turning Stone Resort & Casino (underway - anticipated completion fall 2006); and
  - Installation of three to four underground grease interceptor tanks designed to reduce biochemical oxygen demand in the wastewater sent to the municipal wastewater treatment system (completed July 2006).
- Other Nation business enterprises – The Nation would maintain its current business enterprises.
- Nation government services and affairs – All of these services and affairs would continue to be provided and their respective localities would be maintained.
- Nation member housing – The 98 existing member residences located throughout the 17,370 acres would continue to be maintained.

- Deteriorated structures – The Nation has identified properties where removal of unsafe or unsound structures is to occur and discussed this remediation with local governments. As of September 20, 2006, deteriorated structures (e.g., non historic or architecturally unique homes, barns, silos, sheds, and mobile homes) on 36 properties have been removed. Prior to removing any of these structures, the Nation conducts an evaluation of each including a cultural value assessment and eligibility determination for listing on the National Register of Historic Places. This remediation program has been held in abeyance since September 20, 2006 to allow the Nation to assess the program’s progress to date and to modify the implementation plan as may be appropriate.
- Cultural and historic resources – The current cultural and historic resources presently identified throughout the 17,370 acres would be maintained and preserved.
- Hunting and fishing, wetlands mitigation, and conservation buffer areas – All of these current uses would be maintained in the future.
- Active and inactive pasture and agriculture – Current rentals and cropping patterns are expected to remain essentially the same in future years. There may be a slight increase in the Black Angus herd and crop production on some presently unused parcels that are suitable for agriculture. Increased crop production would be dependent on market conditions.
- Anaerobic digester – The Nation is developing plans to construct an anaerobic digester system for the treatment of the Nation’s agricultural (cattle) and food waste. The system will be located on the Nation’s cattle farm on NYS Route 46 in the Town of Stockbridge. The proposed system is a complete-mix digester system that will occupy less than 50 by 100 yards of land (anticipated construction to begin spring 2007).
- Other improvements in the foreseeable future would include routine upgrades and maintenance as needed on existing Nation lands.

According to the Nation, in addition to the above projects that are either under construction or slated for construction in the immediate future, there are other potential projects associated with the Turning Stone Resort & Casino that the Nation is evaluating. The Nation has indicated that they do not have designs, construction details or contracts for any of these projects. No decision has been made to proceed with any of these concepts. These projects are considered speculative and consequently are not evaluated in the EIS. They are presented here in the interest of providing full disclosure of all concepts for conceivable developments:

- Construction of an additional 18-hole championship caliber golf course;
- Construction of an additional 200 to 300 hotel rooms connected to the casino complex;
- Construction of an Employee Center (team member facility) containing amenities for employees such as a human resources department, employee services and employee store; and

- Construction of a stand-alone Wedding Pavilion.

#### **4.1.4 Future Projects Proposed by Others**

According to a variety of sources including the NYSDEC’s Environmental Notice Bulletin, correspondence with local planning departments and communication with municipal officials, there are several major private development projects proposed in the municipalities where the Nation owns property and are located within the Study Area. These projects, which are listed below, could potentially become operational over the next five years:

- Cazenovia College, Shove Hall – Expansion to accommodate an additional 96 students. (Sullivan and Seminary Streets, Village of Cazenovia)
- Northboro Ridge – 29 unit residential development including eight townhouses and 21 single-family residences. Includes a proposed zoning map change from residential to planned unit development. (Burton Street, Village of Cazenovia)
- South Village – 52 single-family residences. (Chenango Street, Village of Cazenovia)
- Chenango Crossing – 20 to 25 residential units. (Chenango Street by Mill Street, Village of Cazenovia)
- West Side Land Fill Expansion – 62.5 acres of new liner system and 123 acres of mining area to be added. (Town of Lincoln)
- Lowe’s Home Improvement and Plaza – 231,000 square feet of retail space, (1400 Upper Lenox Avenue, City of Oneida)
- Hartman Enterprises Site Modification – Two 600-square foot additions to a manufacturing facility. (Elizabeth Street, City of Oneida)
- Pools Brook Development – 120 single-family homes. (U.S. Route 5, outside of Chittenango, Town of Sullivan)
- Harbor Lights – 92 condominiums. (Lake Oneida, Sullivan)
- Lakeside Industrial Park – 300-foot pier into Oneida Lake. (U.S. Route 31, Town of Sullivan)
- Lakeport Industrial Park – Private development. (U.S. Route 31, Town of Sullivan)
- Worlock Acres Quarry – 67-acre quarry. (Quarry Road, Sullivan)
- Butterfield Tract – Extension of Butterfield Drive and the development of 20 to 25 single-family residential structures. (Fyler Road, Town of Sullivan)
- Patriot Meadows Senior Housing Complex – 160 apartments, 38 single-family homes, and 21,000 square feet of retail space. (1130 Floyd Avenue, City of Rome)
- Family Dollar New York Distribution Center – 907,000 square foot distribution center (640 Perimeter Road, Griffiss Business & Technology Park, City of Rome)
- East Coast Olive Oil Office Building – 250,000 square foot office building (Otis Street, Griffiss Business & Technology Park, City of Rome)

- America Credit Union Bank Building – 30,000 to 40,000 square foot bank building proposed for America Credit Union. (Business Technology Park, NYS Route 825, City of Rome)
- Oneida Savings Bank Building – 30,000 to 40,000 square foot bank building proposed primarily for Oneida Savings Bank, office space, and rental space. (Business Technology Park, NYS Route 825, City of Rome)
- Indoor Motocross Racetrack – Inoperative 260 foot by 300 foot outdoor racetrack to be improved and reopened. (Old Route 26 at Marble Road, Town of Vernon)
- Verona Greens – Two hotels (total 640 rooms), restaurant (850 seats), and retail space (157,500 square feet) development. (NYS Route 365, Village of Verona)
- Vernon Downs – Video lottery terminal to be permitted in conjunction with existing hotel and racetrack. (Intersection of NYS Routes 5 and 31, Town of Vernon)

Several public infrastructure projects are also proposed in the area. They include the following:

- Village of Vernon – 30,000-foot water main and 500,000 gallon storage tank. (Existing pump station)
- Town of Verona – 27,000-foot water main (Old Oneida, Spring, Hill, Fox, Foster Corners Roads, Foster and Main Streets, Hamlet of Durhamville)
- Town of Vienna, Hamlet of Vienna Water District – 68,000 feet of water mains, storage and other improvements. (NYS Routes 13 and 49, Haskins Road, Kimball Road, Powell Road, McConnellsville Road and Yager Road)
- Town of Lincoln, West Hill Windmills – Construction of electrical substation and overhead transmission lines. (Creek Road, south of NYS Route 5A)
- City of Oneida – Expansion of wastewater treatment plant capacity from 2.5 (7.0 MGD peak) to 5 MGD (10 MGD peak). (Harden Street)
- City of Oneida – Approximately 10,500 feet of replacements and extensions of 12-inch water mains. (North Main Street, West Elm Street)
- City of Oneida – Approximately 17,900 feet of replacements and extensions of 8-inch water mains. (Farrier Avenue, Shattuck Avenue, Park Avenue, Pearl Street, North Broad Street, Fitch Street, Deerfield Drive, MacArthur Parkway, South Court Street, State Street, E. 6<sup>th</sup> Street, Earl Avenue, E. 7<sup>th</sup> Street, Middle Road)
- Town of Stockbridge, New York Wind Power – Two to three wind turbines.
- Town of Sullivan – Lakeport Road I-90 Interchange, North Chittenango.
- Town of Sullivan – Sewer improvements. (NYS Route 5 in the Village of Chittenango, NYS Route 31)
- Town of Smithfield, New York Wind Power – Four to five wind turbines.
- Town of Westmoreland – New water source connection to Upper Mohawk Valley Regional Water Board and water distribution improvements. (NYS Route 233,

South Street, Berkshire Drive, Lowell Road, Cider Street, Graves Road, and Stone Road)

Taking into consideration the above-listed projects proposed by others, the Draft EIS strives to determine if they in combination with the Proposed Action or its alternatives will have significant cumulative effects on the Study Area. The projects proposed by others are essentially public infrastructure and private development projects involving construction and modification of the natural and manmade environment. The Proposed Action is a transfer of title (an administrative Federal action) and does not result in construction of facilities or modification of the physical environment. The types of effects associated with the Proposed Action are primarily of a jurisdictional, regulatory, cultural, and socioeconomic nature while the effects of projects proposed by others will be primarily on natural systems and infrastructure. The projects listed above do not represent growth-inducing actions that would result in significant growth in permanent jobs or population within the region. Regional trends do not indicate that significant growth will occur, and the proposed residential and commercial development and infrastructure projects would likely serve existing residents and their needs. Therefore, the BIA has concluded that there is no need for a detailed analysis of the cumulative impacts associated with the projects proposed by others given the difference in resources that could be affected by the Proposed Action or its alternatives and those resources that could be affected by the projects proposed by others.

The one exception would be infrastructure and specifically the transportation network, as traffic from increased visitors and employment under the Proposed Action and alternatives and projects proposed by others could have a potential effect on the transportation network within the Study Area. Due to its geographic proximity and similarity to the Turning Stone Resort & Casino, therefore, the proposed Verona Greens hotel complex is included in the traffic analysis presented in Section 4.8.5 Transportation. The Verona Greens project is proposed to be located on a parcel of land located across NYS Route 365 from the Turning Stone Resort & Casino and could include the development of a hotel, restaurants, and stores and allow for the development of necessary infrastructure.

If undertaken, the projects proposed by others would all come under the jurisdiction of New York State and the local communities in which they are located. Most of these projects would be subject to local zoning and subdivision regulations, and subject to review under the New York State Environmental Quality Review Act (SEQR).