

4.9 Other Values

4.9.1 Wilderness

For the purpose of defining whether the Proposed Action or any of the alternatives, including the No Action Alternative, would result in a potentially significant adverse effect, various criteria were considered such as the Federal Wilderness Act or potential impacts to New York State lands that are under the jurisdiction of the NYSDEC Division of Lands and Forests.

Significance Criteria

Potentially significant adverse effects may occur if the action is likely to directly, indirectly, or cumulatively cause an adverse change on Federal lands that are managed subject to the Federal Wilderness Act or a New York State Wildlife Management Area, Forest Preserve, New York State Forest, Reforestation Area, Multiple Use Area/Land, Unique Areas, State Nature and Historic Preserve, and Conservation Easement. Impacts can be less than significant, less than significant with mitigation incorporated or potentially significant. The direct, indirect, and cumulative potentially significant adverse effects of the implementation of the Proposed Action or any of the alternatives as discussed below.

4.9.1.1 Direct Effects

Implementation of the Proposed Action and any of the alternatives including the No Action Alternative, would not result in any physical disturbance to any Federal Wilderness Area or any New York State lands that are under the jurisdiction of the NYSDEC Division of Lands and Forests. There are no Federal lands located within Oneida or Madison Counties that are managed subject to the Federal Wilderness Act. There are no State lands under the jurisdiction of the Division of Lands and Forests located within any of the towns where the Nation owns property. As such, implementation of the Proposed Action or any of the alternatives, including the No Action Alternative, would not result in a significant adverse direct effect on regional wilderness resources.

4.9.1.2 Indirect Effects

Implementation of the Proposed Action and any of the alternatives, including the No Action Alternative, would not result in any activity that would indirectly affect Federal lands that are managed subject to the Federal Wilderness Act or New York State lands that are under the jurisdiction of the NYSDEC Division of Lands and Forests. As such, implementation of the Proposed Action or any of the alternatives, including the No Action Alternative, would not result in a significant adverse indirect effect on regional wilderness areas or to the New York State's ability to regulate its lands that are under the jurisdiction of the NYSDEC Division of Lands and Forests.

4.9.1.3 Cumulative Effects

Implementation of the Proposed Action and any of the alternatives, including the No Action Alternative, would not result in any activity that would directly or indirectly impact Federal lands that are managed subject to the Federal Wilderness Act or New York State lands that are under the jurisdiction of the Division of Lands and Forests. As such, an analysis of cumulative impacts is not provided for this resource category.

4.9.2 Noise and Light

4.9.2.1 Noise

This section addresses potential effects on ambient noise conditions associated with the implementation of the Proposed Action or any of the alternatives, including the No Action Alternative. The significant criteria and potential direct, indirect, and cumulative effects on ambient noise conditions are described herein.

Significance Criteria

Potentially significant adverse effects may occur if the action is likely to directly, indirectly, or cumulatively result in the exposure of persons to or the generation of noise levels (including mobile sources, i.e., vehicular traffic) that exceed land use compatibility noise regulations of the U.S. Department of Housing and Urban Development or HUD (24 C.F.R. Part 51B) or standards of the NYSDEC (Program Policy: Assessing and Mitigating Noise Impacts, February 2, 2001). Noise impacts can be less than significant, less than significant with mitigation incorporated or potentially significant.

Direct Effects

Implementation of the Proposed Action or any of the alternatives, including the No Action Alternative, does not involve the introduction, operation or modification of any noise generating sources on Nation lands, adjacent non-Nation lands or on any lands located within the Study Area. Similarly, no change in mobile source trips and associated noise emissions would directly or indirectly result from implementation of the Proposed Action or any of the alternatives. As such, implementation of the Proposed Action or any of the alternatives, including the No Action Alternative, would not result in any direct impacts to ambient noise conditions in the local area, municipalities, Madison and Oneida Counties or surrounding region.

Indirect Effects

Alternatives A and B

Implementation of Alternative A (the Proposed Action) and Alternative B would not result in activities that would indirectly result in the introduction or modification of noise sources or alter mobile source noise emissions on Nation lands, adjacent Non-Nation lands or on other lands within the Study Area. As such, implementation of Alternatives A and B would not result in a significant adverse indirect effect on ambient noise conditions.

Alternatives C, D, E, F, and G would exclude various parcels and land groupings from conveyance into trust. The only parcels that represent a meaningful source of noise are associated with the Turning Stone Resort & Casino. Since the establishment would continue to operate under Alternatives C through F, there is no difference among Alternatives C through G from a noise perspective with or without lands in trust. The parcels that are excluded from conveyance into trust under these alternatives are not significant contributors to ambient noise as their uses and functions are consistent with surrounding non-Nation lands. The effect on noise that conveyance of lands into trust could also be influenced by the taxation/jurisdictional scenario that is applied to the lands that are not conveyed into trust. Generally, if lands are not conveyed into trust and taxes are paid by the Nation, then activities that generate noise would continue. The most significant Nation activities in this regard are associated with the Turning Stone Resort & Casino. If the Nation chooses not to pay taxes and the lands are foreclosed or alienated away, then activities on those lands would cease and noise sources (mostly vehicular trips) would be eliminated. Under the PTNP - DC scenario, noise generating activities would continue. The following discussion summarizes potential noise sources under each alternative involving land omitted from trust.

Alternative C

Under Alternative C, none of the Group 3 lands would be conveyed into trust. There are limited noise sources on these lands and no activities occur that generate significant vehicular traffic. Agricultural uses exist on a limited number of Group 3 parcels and farm equipment (tractors, tillers, etc.) is an occasional source of noise. Overall, existing ambient noise conditions on these lands are consistent with both New York State and Federal standards for rural land uses.

Under the PTP scenario, the Nation would retain title to the Group 3 lands not conveyed into trust and operations that currently occur on those lands would generally continue into the future. Use of Nation lands would not violate New York State and local noise regulations and ordinances.

Under the PTNP - F scenario, the Nation would lose title to all Group 3 lands. Activities occurring on those lands would cease and noise sources associated with those activities would be eliminated. As described in Section 3.2.4 Land Use and Section 3.9.2 Noise and Light, Nation activities on Group 3 lands are consistent with land uses on surrounding parcels. Noise sources on non-Nation lands would continue to operate and ambient noise conditions would not change as a result of the Nation's discontinuation of operations on Group 3 lands.

Under the PTNP - DC scenario, the Nation would retain title to the Group 3 lands and would continue to engage in the activities that currently occur on those lands. New York State and local enforcement of tax and regulatory laws would remain in dispute. HUD noise regulations would apply to noise sources on Nation lands as well.

Alternative D

Under Alternative D, Group 2 and 3 lands (described above) would be excluded from conveyance into trust. Activities on Group 2 lands that contribute to the ambient noise environment include;

- Public access marinas and boat repair shop;
- 12 SavOn gas stations and convenience store; and
- Active sand and gravel quarry.

Noise sources associated with these lands include vehicular trips, boating and associated marina activities, gas station operations, and quarrying of sand and gravel. These activities and associated noise sources are consistent with the activities and noise sources found in the surrounding area that includes both Nation and non-Nation land uses. Overall, ambient noise conditions in the vicinity of noise generating activities on Group 2 lands are consistent with both New York State and Federal standards for rural land uses.

Under the PTP scenario, the Nation would retain title to the Group 2 and 3 lands and operations that currently occur on those lands would continue into the future. Use of Nation lands would not violate New York State and local noise regulations and ordinances.

Under the PTNP - F scenario, the Nation would lose title to the Group 2 and 3 lands. Activities occurring on those lands would cease and noise sources associated with those activities would be eliminated. As described in Section 3.2.4 Land Use and Section 3.9.2 Noise and Light, the activities on Group 2 lands are consistent with land uses on surrounding properties. Noise sources on non-Nation lands would continue to operate and ambient noise conditions would not change as a result of the Nation's discontinuation of operations on Group 2 and 3 lands.

Under the PTNP - DC scenario, the Nation would retain title to Group 2 and 3 lands and would continue to engage in the activities on these lands, consistent with past actions. New York State and local enforcement of tax and regulatory laws would remain in dispute.

Alternative E

Under Alternative E, two parcels associated with the Turning Stone Resort & Casino (Parcels 10 and 109) totaling approximately 225 acres would be conveyed into trust. The balance of Group 1 lands as well as the Group 2 and 3 lands described above would not be conveyed into trust. Current sources of noise on the Group 1 lands not conveyed into trust include the new co-generation electric station (Parcels 181 and 186), golf course operations, related Turning Stone Resort & Casino and golf club maintenance activities, and vehicular traffic associated with the Inn at Turning Stone, the Villages at Turning Stone Resort RV parks, and the Nation's five golf courses. These activities and associated

noise sources are consistent with the activities and noise sources found in the surrounding area that include both Nation and non-Nation land uses. Overall, ambient noise conditions in the vicinity of noise generating activities on Alternative E lands are consistent with both New York State and Federal standards for rural land uses.

Under the **PTP** scenario, the Nation would retain title to all of its lands (Parcels 10 and 109 would be conveyed into trust) and operations that currently occur on those lands would continue into the future. Use of Nation lands would not violate New York State and local noise regulations and ordinances.

Under the **PTNP - F** scenario, the Nation would lose title to all of its lands with the exception of Parcels 10 and 109. Activities occurring on all the lands omitted from trust would cease and noise sources associated with those activities would be eliminated. Noise sources on non-Nation lands would continue to operate and ambient noise conditions would not change as a result of the Nation's discontinuation of operations on the lands excluded from trust.

Under the **PTNP - DC** scenario, the Nation would retain title to the lands not conveyed into trust lands and would continue to engage in the activities on these lands, consistent with past actions. Use of Nation lands would not violate New York State and local noise regulations and ordinances. New York State and local enforcement of tax and regulatory laws would remain in dispute.

Alternative F

Alternative F would convey Group 1 lands, most of Group 2 lands, and some of Group 3 lands into trust. Activities on lands not conveyed into trust under Alternative F are similar to those described under Alternative C and include agricultural uses and the sand and gravel quarry.

Under the **PTP** scenario, the Nation would retain title to those lands not conveyed into trust and operations that currently occur on those lands would generally continue into the future. Use of Nation lands would not violate New York State and local noise regulations and ordinances.

Under the **PTNP - F** scenario, the Nation would lose title to those lands not conveyed into trust. Activities occurring on those lands would cease and noise sources associated with those activities would be eliminated. Noise sources on non-Nation lands would continue to operate and ambient noise conditions would not change as a result of the Nation's discontinuation of operations on non-trust lands.

Under the **PTNP - DC** scenario, the Nation would retain title to those lands not conveyed into trust and would continue to engage in the activities that currently occur on those lands. Use of Nation lands would not violate New York State and local noise regulations

and ordinances. New York State and local enforcement of tax and regulatory laws would remain in dispute.

Alternative G

Under Alternative G, Nation lands would not be conveyed into trust. The Turning Stone Resort & Casino, which has the following noise sources, would also not be conveyed into trust:

- Vehicular traffic associated with the operation of the Turning Stone Resort & Casino and
- SavOn gas stations and convenience stores.

Under the CC – AEC scenario the Turning Stone Resort & Casino would close. As a result of this action, the Nation would lose its most significant of revenue. This would have a significant effect on the Nation’s ability to support many of the activities that are currently subsidized by revenue from the Turning Stone Resort & Casino and SavOn gas stations and convenience stores. Many of these activities including operation of the co-generation electric station, many of the SavOn gas stations and convenience stores, certain agricultural operations, and the Nation’s existing member housing program would cease. As such, noise sources associated with those activities would also cease. Noise sources on non-Nation lands would continue to operate and ambient noise conditions would not change as a result of the Nation’s discontinuation of operations on non-trust lands.

Under the No Action - PTP scenario, the Nation would retain title to all of its lands and operation of the Turning Stone Resort & Casino, and the other activities that currently occur on those lands would continue into the future. Use of Nation lands would not violate New York State and local noise regulations and ordinances.

Under the No Action- PTNP - F scenario, the Nation would lose title to all of its lands. All activities occurring on those lands, including the operation of the Turning Stone Resort & Casino, would cease and noise sources associated with those activities would be eliminated. Noise sources on non-Nation lands would continue to operate and ambient noise conditions would not change as a result of the Nation’s discontinuation of operations on non-trust lands.

Under the No Action- PTNP - DC scenario, the Nation would retain title to all of its lands and would continue to engage in the activities on these lands, including the operation of the Turning Stone Resort & Casino. New York State and local enforcement of tax and regulatory laws would remain in dispute. The requirements of the HUD noise regulations (24 C.F.R. Part 51B) would apply to noise sources on Nation lands.

Cumulative Effects

Cumulative effects include effects beyond those solely attributable to the implementation of the Proposed Action or the alternatives, which result from the incremental effect of the

Proposed Action when added together with other past, present, and reasonably foreseeable future actions. As such, a cumulative assessment of potential noise effects has been prepared to assess the cumulative effect that implementation of the Proposed Action or the alternatives would have in the context of the Nation's past, present and future activities as well as future activities proposed by others.

Past actions by the Nation, including construction and operation of the Turning Stone Resort & Casino, are reflected in the current condition and are summarized both in Section 3.4 Air and above. The primary noise source associated with the Nation's current activities occurs from mobile source vehicle trips accessing the Turning Stone Resort & Casino, which is located in direct proximity to I-90, another significant mobile noise source. While construction and operation of the Turning Stone Resort & Casino has increased ambient noise conditions, noise levels on and adjacent to Nation lands including the Turning Stone Resort & Casino, are consistent with New York State and Federal standards for the land uses found in the Study Area.

The Nation's ongoing and reasonably foreseeable construction projects could result in a marginal increase in vehicular trips to the Turning Stone Resort & Casino; however, the increase in trips is not expected to result in a noticeable increase in ambient noise conditions. In general, a doubling of vehicle trips (with a similar vehicle type mix) would only result in a 3 dB increase in ambient noise levels.

In addition to projects and activities that the Nation is undertaking or are planned in the near term, other private and public development projects have been proposed. These projects are assumed to be operational by the year 2012.

With the exception of Alternative G (No Action), there are no meaningful differences between the potential noise effects of each of the alternatives. Alternative G could result in the closure of the Turning Stone Resort & Casino and all associated facilities. This action would result in a reduction in mobile source noise from vehicles in the region; however, this reduction is not expected to result in a significant improvement in ambient noise conditions since noise levels are already consistent with New York State and Federal standards for the land uses found in and around Nation lands. When taken cumulatively with proposed non-Nation projects, implementation of the Proposed Action or the alternatives would not result in an overall significant increase (or decrease) in ambient noise conditions surrounding Nation lands and in the Study Area.

4.9.2.2 Light

This section addresses potential impacts to ambient lighting conditions associated with the implementation of the Proposed Action or any of the alternatives, including the No Action alternative. Potential direct, indirect and cumulative effects are described herein.

Significance Criteria

For the purpose of defining whether the Proposed Action or any of the alternatives, including the No Action Alternative, have the potential to result in a significant adverse effect on lighting, the following are considered. Potentially significant adverse effects may occur if the action is likely to directly, indirectly or cumulatively the following:

- Create or modify a light source or create glare that could significantly affect day or nighttime views;
- Have an adverse effect on ambient lighting conditions on Nation lands, adjacent non-Nation lands or within the larger geographic context of the towns or counties.

Lighting impacts can be less than significant, less than significant with mitigation incorporated or potentially significant.

Direct Effects

Implementation of the Proposed Action or any of the alternatives, including the No Action Alternative, does not involve the introduction of any new lighting sources or sources of glare and would not have a direct effect on existing lighting patterns or ambient lighting conditions.

Indirect Effects

Implementation of the Proposed Action or any of the alternatives would not result in the introduction of any new light sources or modification of existing light sources and would not indirectly affect ambient lighting conditions on adjacent non-Nation lands or on other lands located within the Study Area.

Under Alternative G, (the No Action alternative), the Turning Stone Resort & Casino and its attendant facilities would close. This establishment is a major source of light in the area and is a recognizable part of the nighttime viewshed. Closure of the Turning Stone Resort & Casino would eliminate this light source (with the exception of required FAA lighting on the Tower at Turning Stone). The elimination of the light sources from the Turning Stone Resort & Casino, SavOn gas stations and convenience stores or other enterprises would mean obvious change to the nighttime viewshed of the surrounding area. Some residents within the viewshed may view the elimination of the Turning Stone & Resort Casino as a light source as a beneficial effect in this specific regard.

Cumulative Effects

Past actions by the Nation including construction and operation of the Turning Stone Resort & Casino, are reflected in the current ambient light conditions and are summarized in Section 3.9.2 Noise and Light. The Turning Stone & Resort Casino was constructed on two undeveloped parcels adjacent to I-90. While the Turning Stone & Resort Casino is a source of light, it has not been identified in the past or present as creating an adverse lighting condition.

In addition to the Turning Stone Resort & Casino, the Nation has also developed a number of parcels that are generally consistent with existing land use and in context with the surrounding ambient lighting conditions. With the exception of the Turning Stone Resort & Casino, none of the Nation's past projects has had a noticeable effect on nighttime lighting conditions.

The Nation's reasonably foreseeable plans include ongoing and near term construction projects that would result in changes to ambient lighting immediately surrounding the Turning Stone & Resort Casino property. These projects would all be in context with the existing resort character and its lighting.

In addition to projects and activities that the Nation is undertaking or are planned in the near term, other private and public development projects have been proposed. These projects are assumed to be operational by the year 2012. None of these projects is expected to be of a scale that would result in a significant alteration of the lighting character in the region. On a more localized scale however, construction of the proposed Verona Greens project, that is slated to potentially include two hotels, retail space, and a restaurant could add to the cumulative nighttime lighting effect of the Turning Stone Resort & Casino. The combination of the two facilities would have an increased effect on nighttime lighting. The significance of this effect depends in part on the design, scale, materials, lighting sources, and layout of the yet to be constructed Verona Greens project.

4.9.3 Visual Resources

This section addresses potentially adverse effects on visual resources associated with implementation of the Proposed Action or any of the alternatives, including the No Action alternative. Potential direct, indirect, and cumulative effects on visual resources are described.

Significance Criteria

For the purposes of defining whether the Proposed Action or the alternatives (including the No Action Alternative) have a potentially significant adverse effect on visual resources, the following are considered whether the action is likely to directly, indirectly or cumulatively:

- Result in an impairment (obstruction or physical change) to a scenic resource or viewshed (such as a scenic area of statewide significance) or that would result in damage to scenic resources (including, trees, rock outcroppings, and historic structures may result in an impact on visual resources);
- Impair the visual quality, perception or enjoyment of visual resources including historic resources;
- Affect other locally important visual resources on Nation lands, adjacent non-Nation lands or within the larger geographic context of the municipalities or Oneida and Madison Counties.

Visual effects can be less than significant, less than significant with mitigation incorporated or potentially significant.

4.9.3.1 Direct Effects

Implementation of the Proposed Action or any of the alternatives,(including the No Action Alternative), would not result in any obstruction or physical change to any scenic vistas or important viewsheds on Nation lands, adjacent non-Nation lands or on any lands located within the Study Area. Similarly, implementation of the Proposed Action or alternatives would not directly impair the visual quality, perception or enjoyment of identified historic resources on Nation lands, adjacent non-Nation lands or within the Study Area and would not result in any direct effects on visual resources in the local area, municipalities, Oneida and Madison Counties or the surrounding region.

4.9.3.2 Indirect Effects

Implementation of Alternatives A through F would not result in changes to land uses on Nation trust lands that could indirectly affect visual resources on adjacent non-Nation lands or on other lands located within the Study Area. Activities on lands that are not conveyed into trust under Alternatives C through F and the various scenarios could have an indirect effect on visual resources or character associated with existing activities on these lands that might cease if lands were not conveyed into trust.

Under scenarios where lands would be alienated through foreclosure or sale, activities occurring on those lands would cease including all maintenance and upkeep of structures and associated landscaping. The ultimate disrepair and decay of structures and properties on lands and associated facilities not in trust could represent an indirect visual effect.

Under Alternative G,(the No Action Alternative), Nation lands would not be conveyed into trust. The CC-AEC scenario assumes that the Turning Stone Resort & Casino would be closed. As a result, the Nation would lose its most significant source of revenue. Ongoing and planned projects for the Turning Stone Resort & Casino would not be undertaken, which would have a significant effect on the Nation's ability to support many of the activities that are currently subsidized by revenue from the Turning Stone Resort & Casino and SavOn gas stations and convenience stores. Many of these activities would cease including all maintenance and upkeep of structures and associated landscaping. It is unlikely that once closed, the Turning Stone Resort & Casino facilities and grounds would be reused or redeveloped to accommodate other non-gaming commercial, recreational, governmental or educational uses. The eventual disrepair and decay of structures on these lands, particularly those associated with the Turning Stone Resort & Casino, would result in a significant indirect effect on visual resources as the nature of the existing visual character of the Study Area changes from one of vibrant active land use to one associated with abandoned and poorly maintained properties.

4.9.3.3 Cumulative Effects

Past actions by the Nation, including construction and operation of the Turning Stone Resort & Casino, are reflected in the current condition and are summarized in Section 3.4 Air. The Turning Stone Resort & Casino was constructed on two undeveloped parcels adjacent to I-90. The Tower at Turning Stone is the tallest building and most dominant structure in the local viewshed, standing at 253 feet. Given the Turning Stone Resort & Casino height and mass, at the time of construction it was inconsistent with the visual scale of the surrounding area. Although construction of the Turning Stone Resort & Casino did not result in any impairment to designated Scenic Areas of Statewide Significance, there are two visually sensitive land uses located within the Study Area, Sunset Lake and Mt. Hope Reservoir. Sunset Lake is located in the City of Oneida near the Oneida-Madison County border. It has an elevation of 510 feet amsl and is in close proximity to the Oneida Community Golf Club. The lake is surrounded by temperate deciduous vegetation but it does not border Nation-owned land. During leaf-off conditions, the Tower at Turning Stone is partially visible from vantage points on this site. Visibility of the Tower Hotel at Turning Stone is greater at night. Mt. Hope Reservoir is located between Mt. Hope Avenue and Fairview Avenue behind residential properties in the City of Oneida. In 1997 this reservoir was added to the National Register of Historic Places, its period of significance is 1875 – 1924. The most dominant feature of the Mt. Hope Reservoir is the dome that rises from the water. A buffer of evergreen trees shields this reservoir from nearby homes. Mt. Hope Reservoir borders Parcel 166 (Group 3) which is used for corn cultivation. Overall, there is no significant adverse visual effect on these two areas resulting from the Turning Stone Resort & Casino. Today, the Turning Stone Resort & Casino is a recognized feature of the local viewshed. It is anticipated that local residents have become accustomed to the long-standing presence of the Turning Stone Resort & Casino complex, while visitors to the region will view the complex in the context of its visual setting as a major resort property.

In addition to the Turning Stone Resort & Casino, the Nation has also developed a number of parcels that are generally consistent with existing land use and in context with the surrounding viewsheds. With the exception of the Turning Stone Resort & Casino, none of the Nation's past projects has had a noticeable effect on visual resources or visual character in the area.

Many of the parcels that the Nation reacquired contained a variety of old structures in substandard condition. These structures ranged from mobile homes, apartments, hotels and auto garages to sheds, log cabins, barns, and silos. The Nation has a demolition plan for removal of substandard structures from Nation lands. To date, deteriorated structures on 36 properties have been removed. This program has been held in abeyance since September 20, 2006. The Nation's efforts to improve the aesthetic quality of these sites are part of an overall process that will ultimately improve the visual character in the immediate vicinity of Nation lands.

The Nation's ongoing and reasonably foreseeable plans include construction projects that could result in localized effects on viewsheds surrounding Nation lands. These projects are described in Section 4.1.4 Ongoing and Planned Nation Development Projects and Activities. These projects are not expected to result in a significant adverse impact to visual resources in the Study Area. The ongoing and planned projects at the Turning Stone Resort & Casino would all be in context with the existing character and use of the property as a major destination resort and are not expected to significantly alter the overall visual perception of the facility from the current condition. Continuation of the Nation's agricultural land use including a proposed digester, would be consistent with land uses in the region.

In addition to projects and activities that the Nation is undertaking or are planned in the near term, other private and public development projects have been proposed. These projects are assumed to be operational by the year 2012. On a more localized scale, however, in the vicinity of the Turning Stone Resort & Casino, potential construction of the Verona Greens project is slated to include two hotels, retail space, and a restaurant and could add to the current visual impression of the Turning Stone Resort & Casino. The combination of the two facilities would have an effect on the visual landscape. The significance of this effect depends in part on the design, scale, materials, lighting, and layout of the yet to be constructed Verona Greens project.

4.9.4 Public Health and Safety

Significance Criteria

For the purpose of defining whether the Proposed Action or any of the alternatives, (including the No Action Alternative), result in a potentially significant adverse effect on public health and safety, several criteria are considered. Potentially significant adverse effects may occur if the action is likely to directly, indirectly or cumulatively:

- Increase the generation of solid waste and/or decrease the availability or capacity of local and/or regional solid waste management resources and as a result adversely affect the regions ability to effectively manage the waste stream;
- Increase human or environmental exposure to hazardous materials associated with the use, transport or handling of hazardous materials including contaminated soils or sediments;
- Prevent access to and maintenance of existing infrastructure; or
- Increase the demand for utilities beyond the capability to provide service to acceptable standards.

4.9.4.1 Direct Effects

Implementation of the Proposed Action or any of the alternatives, (including the No Action Alternative), would not result in any physical disturbance or generation of solid waste or hazardous materials on Nation lands, adjacent Non-Nation lands or on other lands located within the municipalities, Madison and Oneida Counties in the Study Area

defined in Section 3.9.4 Affected Environment. Implementation of the Proposed Action or any of the alternatives would not increase the generation of solid waste, result in an increase in human or environmental exposure to hazardous materials or increase demand for utilities services. As such, implementation of the Proposed Action or any of the alternatives, (including the No Action Alternative), would not result in a significant adverse direct effect on public health and safety in the region.

No direct effect on the regional power grid would occur as a result of the implementation of the Proposed Action or any of the alternatives. The servicing utility currently has access to lands for maintenance. The Nation has indicated that all easements including those used to access utility infrastructure would continue to be in effect on lands conveyed into trust. The BIA working with the Nation would ensure that critical infrastructure access and maintenance by the utility are unaffected.

4.9.4.2 Indirect Effects

Implementation of the Proposed Action or any of the trust action alternatives would not have an adverse indirect effect on solid waste generation or management or hazardous materials management, transfer, and disposal on Nation lands, on adjacent non-Nation lands or on any lands located within the municipalities of Oneida and Madison Counties. Under the CC-AEC scenario, the Turning Stone Resort & Casino which is the Nation's largest generator of solid waste would shut down. This would action result in less municipal solid waste being generated in the region and would have a beneficial effect on the region as landfill space would not be consumed by the Nation's Turning Stone Resort & Casino operations.

Implementation of the Proposed Action or any of the alternatives would not have an indirect impact on petroleum bulk storage facilities or other storage facilities that handle regulated materials. These facilities, if situated on lands conveyed into trust, would be regulated the Nation's maintenance and monitoring program. As discussed in Section 3.9.4.1 Public Health Safety, in 2005 the Nation conducted a compliance audit for all of the Nation's petroleum bulk storage facilities that confirmed that all the facilities complied with (USEPA Spill Prevention, Control, and Counter Measure Oil Program) SPCC rules, NYSDEC petroleum bulk storage regulations, and National Fire Protection Association regulations. The Nation complies with all Federal regulations on petroleum bulk storage facilities.

The number of petroleum bulk storage facilities that would be conveyed into trust varies among the alternatives. Under the Proposed Action (Alternative A) or Alternatives B, C, or F, 13 SavOn gas stations and convenience stores would be conveyed into trust. One is located on Group 1 lands and the other 12 are located on Group 2 lands. There are no SavOn gas stations and convenience stores located on Group 3 lands. Under Alternative D and Alternative E, one SavOn gas station and convenience store would be conveyed into trust. Alternatives D, E, and G would exclude some of the SavOn gas stations and

convenience stores from being transferred into trust. Under the PTP scenario, the Nation would submit to New York State's regulatory control over petroleum bulk storage facilities. Under the PTNP - F scenario, those parcels would be alienated and the SavOn gas stations and convenience stores located on those lands would close. The PTNP - DC scenario would have the same effect as conveyance of lands into trust.

Under the Alternative E PTNP – F scenario, the Nation's co-generation plant that provides 60 to 90 percent of the power used at the Turning Stone Resort & Casino would cease energy production. Under this alternative, the Nation would be forced to buy power from the National Grid, an electric utility. The Nation purchased power from the National Grid prior to construction of its co-generation electricity. While operation of the Turning Stone Resort & Casino is energy intensive, it should not place an unacceptable demand on power supply in the region as the National Grid was able to successfully supply the Nation in the past. Implementation of the Alternative G CC-AEC scenario would decrease the demand to the regional grid. The co-generation electricity, however, also provides emergency electrical generation capacity to provide back-up temporary electric power in case of failure within the regional grid; this backup capacity would no longer be available if the co-generation electricity were to close under the applicable taxation/jurisdiction scenarios for Alternatives E and G.

4.9.4.3 Cumulative Effects

Past actions by the Nation related to public health and safety are discussed extensively in Section 3.9.5.4 Nation's History of Regulatory Compliance. Activities by the Nation affecting public health and safety are conducted according to protocols described in Section 3.9.5 Regulatory Justice.

The BIA has indicated that it has knowledge of the Nation's commitment to environmental protection and past practices through communication with EPA. Moreover, Environmental Site Assessments conducted by the BIA in summer 2006 indicated very few corrections needed for activities under Nation control. The BIA found that the vast majority of environmental issues were related to previous activities that occurred on the lands prior to re-acquisition by the Nation.

As discussed in Section 3.9.4.2, the Nation conducted Phase I ESAs on all of its lands. The Nation recently completed Phase II ESAs for sixteen Nation parcels listed in the tables in Appendix K and described in Section 3.9.4.2 Hazardous Materials. The objectives of these Phase II ESAs were to confirm the presence or absence of petroleum-related soil and/or groundwater contamination at or near motor fuel storage/conveyance systems and identify the need for further investigative or remedial actions through the collection of subsurface and analytical laboratory data. Results of the Phase II ESAs indicate conclusions and recommendations including Closure of Spill File as Meeting Standards (one site), Closure of Spill File with No Further Action (six sites), Groundwater Monitoring with No Remedial Action (three sites), or Further Investigation and/or Remediation (six sites). It is

unclear whether these conditions relate to past or present actions by the Nation or by others prior to the Nation acquiring the lands.

The Nation's ongoing and reasonably foreseeable plans do include projects, some of which may have public health and safety considerations. These projects generally relate to the Turning Stone Resort & Casino. Ongoing and planned projects would increase the amount of solid waste generated and would also increase the usage of drinking water and electricity as trips to the Turning Stone Resort & Casino. This increase would not be expected to adversely affect the region's ability to effectively manage waste streams or provide utilities, so the effect would likely be less than significant. The Nation would also need to store chemicals to chlorinate the swimming pool; depending on size, this may require a storage tank that would be subject to chemical bulk storage regulations.

4.9.5 Regulatory Jurisdiction

The consequences of conveying lands into trust with respect to regulatory jurisdiction vary under the different trust action alternatives involved. Additionally, there are also regulatory implications that must be considered regarding lands that would be omitted from trust under Alternatives C, D, E, and F as well as in Alternative G, (No Action Alternative) and under the different taxation/jurisdictional scenarios.

For all alternatives where lands are conveyed into trust, EPA would have primacy for environmental regulations and oversight. EPA may delegate programs to states and tribes where the EPA determines that they meet or exceed federal requirements, and has done so with respect to the State of New York. Therefore, New York State has primacy over unrestricted-fee lands. Based on the most recent federal district court decision concerning lands within the Oneida reservation, the land is restricted-fee. EPA therefore has primacy over the lands unless it delegates its authority to the Nation. The Oneida Nation has not sought or received delegation of authority from EPA. Primacy over regulatory jurisdiction could change if a court determines that the Nation's land is unrestricted-fee and the lands not placed into trust.

The consequences of implementing the Proposed Action or any of its alternatives are presented below. Due to the nature of regulatory jurisdiction the direct, indirect, and cumulative effects are interwoven in these narrative sections. For reference, the past history of environmental regulatory actions pertaining to the Nation is presented in detail in Section 3.9.5.4 Nation's History of Regulatory Compliance. In addition regulatory actions related to specific environmental resources that occurred in the past or with respect to its future jurisdiction are discussed in detail in the respective consequences sections for those resources.

4.9.5.1 Alternative A

All 17,370 acres constituting Group 1, 2, and 3 lands would be conveyed into trust and would be under Federal and tribal governance. The Nation has operated under its own

self-governance for more than 10 years and has enforced building, land use, safety, and environmental standards on its lands, some with the cooperation of New York State and local governments. With trust status, local governments would not be able to regulate the use of Nation lands. Nonetheless, the land would be regulated. All existing Federal regulations would apply, as would the Nation's self-governing policies described in Section 3.9.5.3 Present Regulatory Conditions. The current practice of consultation and coordination with local, New York State and Federal agencies on issues related to the protection of the environment, public health and safety, land use, public services, infrastructure development etc. as described in Section 3.9.5.4 Nation's History of Regulatory Compliance would be expected to continue in the future. As a direct consequence of the implementation of Alternative A, the present ambiguity in regulatory control would be decided and the ongoing dispute between local, New York State, Federal governments and the Nation would be resolved. Federal and Nation regulatory jurisdiction over the lands in trust would be conclusively established.

Under Alternative A, New York State and local municipalities would not assert regulatory control over the 17,370 acres of land in trust status. Interagency cooperation is, however, common in other parts of the U.S. where tribes and local governments have entered into a broad range of cooperative agreements on matters of environmental protection, safety, and land use. Voluntary agreements to cooperate on an array of regulatory issues would still be possible under Alternative A and such agreements could reduce concerns surrounding the loss of regulatory control resulting from the trust status on Nation lands. New York State regulation, as summarized in Section 3.9.5.5 Regulatory Justice would not be enforceable on trust lands but through continued dialogue and coordination with the Nation's government, New York State could still extend many of their environmental programs (e.g., the CWD response plan) across Nation-owned lands. New York State police authority and the power of New York State courts in matters of civil and criminal jurisdiction (pursuant to 25 U.S.C. §§ 232 and 233) arising on Nation lands would not be affected by conveyance of the lands into trust.

Land use regulation, environmental protection and public health and safety would continue under Nation policies and Federal jurisdiction on lands conveyed into trust. As described in Section 3.9.5.3 Present Regulatory Conditions and Section 3.9.5.4 Nation's History of Regulatory Compliance, it is the Nation's policy to protect and conserve environmental resources in a manner that is consistent with prevailing standards. The Nation would continue to strive towards this goal and as a result there would be general consistency and equivalency in the application of environmental policies and standards across non-Nation and Nation lands.

Above all, implementation of Alternative A would have a beneficial effect on the Nation's right to self-governance and self-determination. The Nation would be able to completely fulfill its purpose and need for conveying lands into trust and benefit socially, culturally,

and economically from the conveyance. The Proposed Action would secure a land base for the Nation within the boundaries of its aboriginal homeland and within its established reservation and would provide the Nation with control over these lands. Conveyance of all 17,370 acres of land into trust would not only protect and promote the Nation's identity and expression and its social and cultural heritage but also its means for self-sufficiency, economic growth, and self-preservation. The Nation's diversified and productive economic base is spread across these lands as is its community and governmental facilities and its cultural ancestry. The 17,370 acres include the Turning Stone Resort & Casino, golf-courses, SavOn gas stations and convenience stores, other business enterprises, government and administrative buildings, Nation member housing, agricultural lands, cultural and historic sites, recreational lands, health and education facilities, and conservation areas. These facilities together constitute significant attributes of the Proposed Action that help to ensure the self-governance and identity of the Nation.

4.9.5.2 Alternative B

An additional 17,630 acres of lands would be conveyed into trust over time by the Nation in addition to the 17,370 acres currently proposed under Alternative A. Newly acquired lands would be reviewed separately for conveyance to trust. Should Alternative B be implemented, the 17,370 acres would be under control of the Nation and be subject to Federal regulations, as described above under Alternative A. Other lands constituting the balance of Alternative B would also become subject to Nation policies, programs, and oversight upon trust acquisition. Federal laws would also apply to these lands.

Under this alternative, New York State and local governments would not have regulatory jurisdiction over the 35,000 acres. Land use regulation, environmental protection, and public health and safety would continue under Nation policies and Federal jurisdiction on the lands conveyed into trust. The Nation would continue to protect environmental resources and there would be general equivalency and consistency in the application of Federal, New York State, and Nation environmental policies and standards across non-Nation and Nation lands. The same opportunities for intergovernmental cooperation would exist among the parties in order to avoid or minimize potential effects resulting from the trust status on Nation lands.

4.9.5.3 Alternative C

Lands that comprise Groups 1 and 2 would come under the Nation's control and Federal regulatory jurisdiction. Although this alternative would secure a smaller land base, the Nation would fulfill some of its purpose and need for conveying lands into trust.

Under this alternative, New York State and local governments would not assert regulatory jurisdiction on 9,903 acres of trust lands held by or for the Nation's use. Land use regulation, environmental protection, and public health and safety would continue under Nation policies and Federal jurisdiction on the lands conveyed into trust. However, the Nation would continue to protect environmental resources in a manner substantially

consistent with New York State and local environmental regulations and consequently, there would be general equivalency in the application of environmental policies and standards across non-Nation and Nation lands. Opportunities for intergovernmental cooperation would exist among the parties for in Group 1 and 2 lands in order to avoid or minimize potential effects resulting from the trust status on these lands.

Those lands not conveyed into trust comprise 7,467 acres, are all located in Group 3, and their disposition would vary under the three taxation/jurisdiction scenarios as described below.

Under the **PTP** scenario, those Group 3 lands that are not conveyed into trust would be taxable and would be regulated by the New York State and local authorities. The Nation would not have sovereign control over them and, therefore, the Nation's policies on land governance, environmental and cultural protection, and health and safety could not be unilaterally asserted. However, the Nation would be able to retain its use as pastures and agricultural lands and pay taxes on them. Lands would be administered by local governments as prescribed under the laws of New York State and municipal law. Similarly, public health and safety would be the responsibility of New York State and the local governments. The provisions of New York State's Environmental Conservation Law, Agriculture and Markets Law, Parks, Recreation and Historic Preservation Law, and other New York State laws (see Section 3.9.5.5 Regulatory Jurisdiction) would apply. Federal protection would not be available unless future development on these lands triggered a requirement for Federal agency review. This action would especially affect the level of protection provided to significant cultural, archaeological, and historic resources that are located on Group 3 lands. Federal laws like the ARPA and the NAGPRA currently provide for added protection to human remains, archaeological sites, and tribal cultural assets. These laws would not be applicable to Group 3 lands omitted from trust under Alternative C.

Under the **PTNP - F** scenario, the Nation would not pay taxes on lands that would not be conveyed into trust, and those lands would be alienated or foreclosed. The Nation's policies would no longer be applicable on these lands. The direct effect under this scenario would be the partial loss of the Nation's ability to self-govern and sustain self-reliance. Should the Nation lose these lands as a result of foreclosure or sale, a portion of the Nation's cultural assets and identity could be lost. The loss of Group3 lands would adversely affect the Nation's cultural, archaeological and historic resources; agricultural and Black Angus beef operations; and conservation efforts; and would displace some Nation member housing.

Under the **PTNP - DC** scenario, taxes would be levied but unpaid on the lands not in trust, while the Nation would continue to regulate Group 3 lands. The local and New York

State regulatory agencies have held the position that they can assert authority to regulate lands not in trust status. The dispute over regulatory authority would persist.

4.9.5.4 Alternative D

The Nation would have control over these lands and regulate them through its own policies for land governance, environmental protection, and public health and safety. Federal jurisdiction would also apply to Group 1 lands. The most significant effect of this alternative would be on the Nation. As a beneficial effect, the Nation would be able to preserve its most important economic enterprise, the Turning Stone Resort & Casino. In addition the Nation would be able to retain the use and rights of the co-generation electric station, an important facility that supplies power to the Turning Stone Resort & Casino. Also included in Group 1 lands are the open spaces contiguous to and integral to the active gaming and resort properties, a SavOn gas station and convenience store, parking areas, a lodging facility, Peaceful Pines campground, and two residences. The Nation would benefit by being exempt from taxation on these lands and protected from the possibility of sale or foreclosure. However, under Alternative D the Nation would be adversely affected by not having control over Group 2 and 3 lands currently used for Black Angus beef farming and agriculture, wetland mitigation, government and administrative buildings, Nation member housing, other SavOn gas stations and convenience stores, the marinas, and all culturally and historically significant sites. The potential loss of other Nation enterprises, housing, administrative facilities, community facilities, and culturally important resources would diminish the net benefit of taking the Turning Stone Resort & Casino lands into trust and not serve the Nation's purpose and need, which is to protect and promote the Nation's 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 secure from future alienation. The consequences of excluding these lands from trust are addressed under the three taxation/jurisdiction scenarios discussed below.

Under the PTP scenario, lands that are not conveyed into trust would be taxable and regulated by New York State and local authorities; the Nation would not be able to exercise control over them. Added Federal protection under the ARPA and the NAGPRA to historically and culturally important sites on Group 2 and 3 lands would not be available on these lands. However, New York State and local regulatory controls would apply. Protection of the environmental resources, cultural resources, and land resources would be provided under New York State laws to the extent that they apply. Local authorities would govern these lands as authorized under New York State and local municipal law.

Under the PTNP - F scenario, the Nation does not pay taxes on Group 2 and 3 lands that are omitted from trust status. These lands would come under New York State and local jurisdiction and the Nation would be adversely affected due to the alienation or

foreclosure of these lands. As a result, the Nation would not have control or possession of almost all of the lands of cultural value that are integral to the Nation's identity, lands that comprise the Nation's other enterprises (Four Directions Production, SavOn gas stations and convenience stores, Standing Stone Gaming, retail outlet, wholesale distribution, warehouse facilities, sand and gravel quarry, marinas, CNY fiberglass and boat repair, and crop rental on some agricultural land holdings), government and administrative buildings including those housing community services, Nation member housing, wetland conservation areas, and agricultural lands. These lands are essential to the self-preservation and identity of the Nation.

Under the PTNP - DC scenario, the current situation would persist over Group 2 and 3 lands that the Nation would continue to regulate. The local and New York State regulatory agencies have maintained that they have authority to regulate lands not in trust status. Meanwhile, the agricultural lands, forests, water resources, wetlands, air emission sources, cultural resources, waste collection, treatment and disposal, and protection of public health and safety on these lands would be administered by the Nation and Federal agencies.

4.9.5.5 Alternative E

The approximately 225 acres of land comprising a portion of the Turning Stone Resort & Casino, part of two golf courses, related casino resort and golf course maintenance, parking and warehouse facilities, and one SavOn gas station and convenience store would be conveyed into trust. The remainder of Group 1 lands and all Group 2 and 3 lands would be excluded from trust status. Under this alternative, the Nation would regulate only the 225 acres. The land use, use and preservation of natural resources, operation of part of the Turning Stone Resort & Casino, golf courses, and associated facilities within the 225 acres would come under the control of the Nation and would be exempt from taxation. A beneficial effect of this alternative would be the continued operation of the most significant part of the Nation's revenue generating and job creating businesses. However, the potential loss of other Nation enterprises, housing, administrative facilities, community facilities, and culturally important resources would diminish the net benefit of taking only the Turning Stone Resort & Casino lands into trust and not serve the Nation's purpose and need, which is to protect and promote the Nation's 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 secure from future alienation. The effect of not taking other lands into trust is addressed under the three different taxation/jurisdiction scenarios discussed below.

Under the PTP scenario, the Nation would pay taxes on the Group 1, 2 and 3 lands not in trust but the local and New York State governments would have the regulatory authority over these lands. By paying the taxes, the Nation would be able to retain the use of these lands but would not have control. New York State and local authorities would be able to

enforce their regulatory programs across all lands uniformly, except on the 225-acre property.

Under the PTNP - F scenario, the Nation would not pay taxes on the Group 1, 2, and 3 lands not in trust and the regulatory jurisdiction would default to the local and New York State authorities. In this scenario, the Nation would not have sovereign control over these lands and they would be alienated or foreclosed. In this case again, New York State and local authorities would be able to exercise regulatory jurisdiction uniformly across Nation and non-Nation lands.

Under the PTNP - DC scenario, the Nation would not pay taxes on lands not conveyed into trust but they would remain under the ownership and regulatory control of the Nation. Nation and Federal policies on environmental protection, land use, health and safety would be applicable. New York State and local authorities have asserted that this is a disruption to services and programs governed by these entities.

4.9.5.6 Alternative F

All of the parcels located on Group 1 lands combined with the majority of parcels from Group 2 lands and some of the Group 3 lands would be conveyed into trust. Excluded from Alternative F are the Group 3 lands contained within the Stockbridge-Munsee claim area. The lands identified under this alternative include the majority of Nation member housing, all of the Nation's enterprises with the exception of the sand and gravel quarry (Parcel 94, Group 2 lands), all government facilities, all community service facilities, a majority of the significant archaeological and cultural sites, the gaming facilities and golf-courses (see Section 3.2.6.3 for detailed description of all uses on lands selected under Alternative F). These lands together constitute a relatively compact and contiguous cluster of 228 Nation-owned properties spread across 11,986 acres. The most significant effect of taking these lands into trust would be upon the Nation. The Nation would be able to secure use of these lands in trust and benefit socially, culturally, and economically. All trust lands constituting Alternative F would be under the control of the Nation, and would be regulated by the Nation. Nation policies on land governance; protection of the environment, health, and safety of public on these lands would be applicable, as would Federal regulations for the protection and preservation of natural and cultural resources.

Under this alternative New York State and local governments would not have regulatory jurisdiction on the 11,986 acres of trust lands. Land use regulation, environmental protection, and public health and safety would continue under Nation policies and Federal jurisdiction on the lands conveyed into trust. However, the Nation would continue to protect environmental resources in a manner substantially consistent with New York State and local environmental regulations and consequently, there would be general equivalency in the application of Federal, New York State and Nation environmental policies and standards across non-Nation and Nation lands.

The remaining 5,384 acres of lands not conveyed into trust comprise some Nation housing, archaeological properties, active and inactive agriculture including the Black Angus beef farm and some hunting and fishing areas. The consequences under the three different scenarios are described below.

Under the **PTP** scenario, the taxes on lands not conveyed into trust would be paid and those lands would come under New York State and local jurisdiction. Even though these lands would remain under Nation ownership, the Nation would not have sovereign control of these lands. The land use and future development on these properties would be regulated by local and New York State standards. Protection under the ARPA and the NAGPRA would not apply to archaeologically important sites.

Under the **PTNP - F** scenario, the Nation would not pay taxes on the properties not conveyed into trust and they would eventually be alienated or foreclosed. The Nation would not have control over these lands, they would be regulated by local and New York State governments. Added protection to archaeological and historic resources available under Federal laws (the ARPA and the NAGPRA) would not apply to lands not held in Federal trust.

Under the **PTNP - DC** scenario, the Nation would not pay taxes on the lands omitted from conveyance into trust. These lands would continue to be regulated by the Nation under its policies procedures, and subject to Federal regulation. The Nation would continue to consult and cooperate with local, New York State, and Federal agencies on the implementation of environmental standards and any future developments on Nation-owned lands. The local and New York State authorities have maintained that they should have the authority to regulate lands that are not in trust and that these lands should be subject to taxation. The dispute would continue.

4.9.5.7 Alternative G

None of the lands owned by the Nation would be conveyed into trust with the Federal government. Four different scenarios may arise under the No Action Alternative that are discussed below.

Under the **CC-AEC** scenario, it is assumed that New York State's position on the legal status of the Turning Stone Resort & Casino would prevail and the operation of the gaming facility, SavOn gas stations and convenience stores and tobacco sales would cease. This action would have a significant adverse effect on the Nation. Closure of the Turning Stone Resort & Casino and other Nation enterprises would eventually bankrupt the Nation and they would not have sufficient revenues to service the existing debt and meet tax liabilities. Ultimately the Nation would not be economically sustainable and would be unable to fund its government and community services and provide health care to its members without total Federal funding. The Nation would also be unable to protect or preserve cultural and historic resources important to the tribe's traditions leading to an

erosion of its ancestral legacy and community life. The Nation would not have control over all active and inactive agricultural lands, conservation sites, archaeological and cultural properties, and hunting and fishing areas. Overall, under the No Action Alternative all 17,370 acres of Nation-owned lands would no longer be regulated under Nation's policies and would revert to the jurisdiction and regulation of local and New York State authorities. The Nation's land base would be eliminated except for the 32 acre parcel in Madison County.

Under the PTP scenario, taxes on all 17,370 acres of Nation lands would be paid although none would be under trust status. All lands including Nation residences, all of the cultural and archaeological sites, the wetland conservation site, the Black Angus beef 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, would come under the regulatory jurisdiction of New York State and local governments. However, the Nation would retain ownership of these lands. The Turning Stone Resort & Casino would continue to operate under official standing and all other Nation enterprises including the SavOn gas stations and convenience stores and marinas would continue operations. Real estate taxes would be paid on all Nation lands along with any applicable excise and sales taxes related to Nation businesses located there. 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.

Under the PTNP - F scenario, taxes on the 17,370 acres not entering trust would not be paid and regulatory jurisdiction of those lands would be under New York State and local governments. The Nation would not have sovereign control over any of its reacquired lands, although the Turning Stone Resort & Casino and other Nation enterprises could officially continue operations. However, since taxes would not be paid on any lands or business transactions the 17,370 acres would be alienated or foreclosed. As this occurs, all of the Nation businesses would be shut down and its governance, services, and programs would cease in their current form and function relying completely upon Federal funding. The Nation's land base would be eliminated.

Under the PTNP - DC scenario, taxes on the 17,370 acres would not be paid and these lands would continue to be regulated by the Nation. Thus, the Nation would retain ownership of these lands and regulate them under the Nation's policies, codes, and ordinances. The entire 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. However, the position of New York State and local governments has been that they have the authority to regulate the lands omitted

from trust. In this scenario, the dispute over the taxation and jurisdiction of the lands omitted from trust would continue.

Overall, none of the No Action scenarios would meet the purpose and need of the Nation.

4.9.5.8 Summary

With respect to the various trust action alternatives (Alternatives A through F), each involve the different Groupings which, depending upon the perspectives of the Nation, New York State and local governments, represent varying degrees of authority to assert regulatory control of the lands involved. From the Nation's perspective, the trust process enables and secures its rights to self-governance and control of lands considered its ancestral homeland and within its reservation. The rights of self-governance, protection of sovereignty, treaty rights, and government-to-government relationships have particular and unique meaning to tribes. The implementation of Alternatives A through F provides the Nation with varying degrees of control over its lands, which the implementation of Alternative G provides none.

Conversely, New York State and Oneida and Madison Counties have asserted that conveying lands into trust would be unprecedented in New York State and that lands held by the Federal government on behalf of the Nation would have profound negative effects on the various subdivisions, residents, and citizens. They argue that the separation of lands from New York State and local regulatory jurisdiction threatens the regulatory scheme as a whole because environmental laws are effective only if they apply uniformly and equitably over an entire geographic area. New York State also has asserted that trust status does more than exempt land from compliance with established New York State environmental and local laws, trust status may render those laws ineffective in the protection of surrounding lands they comprise the environment.

With the exception of Alternative G (No Action), the New York State and local governments would not have the ability to regulate uses and activities on Nation lands in trust. The lands in trust would, however, continue to be regulated by Federal laws that apply to tribal land and, to the extent that these laws are enforced in a manner consistent with New York State laws, provide environmental protection. The land will in addition 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, and environmental protection. Through those policies, the Nation is committed to standards of environmental protection and conservation. The BIA's experience is that the trust process provides an opportunity for tribes and local and state governments to enter into a broad range of cooperative agreements for the benefit of the environment and all parties involved. The BIA has numerous examples of where this approach has succeeded in the past and where effects, real or perceived to the social and living environment have been avoided, minimized or mitigated altogether. These same opportunities exist in the case of the Nation's application to convey lands into trust with the Federal government. Such

voluntary agreements can serve as a mechanism to reduce or eliminate environmental and regulatory effects potentially arising from any one alternative or configuration of lands held in trust status.