

Executive Summary

Introduction

In April 2005 the Oneida Nation of New York (the Nation) submitted a Trust Application to the Bureau of Indian Affairs (BIA) to transfer Nation owned property within its reservation boundaries to federally held title. The BIA, a part of the Department of Interior (DOI), has elected to prepare this Environmental Impact Statement (EIS) to support a decision concerning the Trust Application. This EIS assesses the environmental effects associated with the Proposed Action of transferring the title to 17,370 acres of land currently owned by the Nation to the BIA. The 17,370 acres of land proposed for conveyance into trust are located in Madison and Oneida Counties, New York, within the boundaries of the Nation's historic and cultural homeland and within its reservation as acknowledged by Federal treaties. The BIA is the Federal agency charged with reviewing and approving tribal applications pursuant to 25 United States Code (USC) § 465 and 25 Code of Federal Regulations (CFR) 151 to take land into Federal trust status. The Draft EIS has been prepared pursuant to the requirements of the National Environmental Policy Act (NEPA) 42 U.S.C. 4321 *et seq* and the Council on Environmental Quality Regulations for Implementing NEPA (40 CFR 1500-1508), the USDOJ Manual 516 DM 1-7 and 10, and the BIA NEPA Handbook 59 IAM 3-H (May 5, 2005).

The BIA, as lead agency, has directed the preparation of this EIS and is responsible for its content. There are two primary objectives for the EIS. The first is to evaluate a number of alternatives to determine whether the Proposed Action presents the best approach for the BIA to adopt, in terms of limiting potential adverse direct, indirect, and cumulative effects and achieving the Nation's goals of economic self-sufficiency and self-determination. The second objective is to assess the environmental, social, and economic impacts associated with the Proposed Action and other reasonable alternatives.

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

The BIA is preparing an EIS as part of an environmental review process for the Nation's Trust Application under NEPA. The BIA issued a Notice of Intent to prepare an EIS on December 23, 2005. Subsequently, the BIA conducted scoping meetings on January 10 and 11, 2006 and received comments and input from governmental agencies, the public, and interested parties on the issues to be addressed in the EIS. A final Scoping Report was distributed and made available to the public, interested parties, and cooperating agencies on July 28, 2006. The next step in the environmental review process is to prepare a Draft EIS, which is this document. There will be a 45-day public comment period for the Draft EIS which includes a public hearing. A Final EIS will then be prepared that will incorporate comments received on the Draft EIS. The final step in the process will be to prepare a Record of Decision. Any notice of a final decision to acquire land in trust status will be published in the Federal Register and in local newspapers.

Purpose and Need

The purpose of the Proposed Action is to help address the Nation's need for cultural and social preservation, expression and identity, political self-determination, self-sufficiency, and economic growth by providing 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, health and educational facilities, and burial grounds;
- protects Oneida historical and cultural sites under Oneida sovereignty and control;
- assures the preservation of a homeland for those Nation members located elsewhere in New York State and throughout the U.S.;
- is restricted against future alienation and immune from New York State and local taxation and regulation; and
- allows the Nation to avail itself of Federal laws that apply to lands held in trust status including the Indian Gaming Regulatory Act.

The Nation has been recognized as an Indian tribe by the federal government since the earliest days of the United States (U.S.) when they fought with the colonists against the British in the Revolutionary War. In 1794, the U.S. acknowledged an area in central New York State of about 300,000 acres to be the Nation's reservation and property.

Thereafter, almost all of that land was alienated away from the Nation mostly to the State of New York. As the Nation lost access to its historic reservation many of its members experienced poverty and economic hardships including higher unemployment, lower household income, lower levels of education, inadequate health care, and limited home ownership. The Nation's inadequate land and economic base threatened the social,

health, and cultural fabric necessary to ensure the Nation's continued existence in the State of New York as a distinct, federally recognized Indian tribe.

Beginning in 1987, the Nation began to reacquire possession of its previously alienated lands for varied purposes such as cultural, social, agricultural, hunting, government, and housing, and for diversified business and economic development. The Nation now has a member housing area known as the Village of the White Pines, the Ray Elm Children & Elders Center, and governmental infrastructure including offices for administration, environmental, and other self-regulation services; police; housing; social services; communications; and transportation services all located on the reacquired lands. The Nation has constructed a major cultural center, the Shako:wi Cultural Center and has sought to reacquire other culturally significant lands such as existing cemeteries, traditional longhouse locations, and former village sites. The Nation has constructed a diversified business structure in convenience stores, a newspaper publishing enterprise, gasoline stations, and a major destination resort known as the Turning Stone Resort & Casino (TSRC). The Nation also maintains agricultural lands, hunting areas, marinas, and a Black Angus cattle herd. In addition, the re-gathering of the Oneida and the proceeds of economic development have permitted the Nation to develop Oneida language programs; education programs; social and cultural programs; legal and justice services; and medical programs including health insurance for Nation members and their families; job training programs; and child-care programs.

In 2005, the U.S. Supreme Court held in *City of Sherrill v. Oneida Nation*, 544 U.S. 197 (2005) that the Nation's reacquired lands were subject to taxation unless accepted into trust by the United States pursuant to 25 USC § 465. As a consequence of the U.S. Supreme Court's decision, New York State and local governments now seek to tax and regulate the reacquired lands on which the Nation plans to continue its social, political, and economic development. The State of New York and local governments have also asserted that the Nation's Turning Stone Resort & Casino cannot legally continue to operate in the absence of tribal sovereignty over the relevant lands. The Nation has, therefore, filed its Trust Application with the BIA regarding the reacquired lands. The trust action does not necessarily resolve all ongoing disputes regarding the operation of the casino. The statutory authority for acquiring lands in trust status for Indian tribes is provided in the Indian Reorganization Act of 1934 (IRA), codified at 25 USC 465 with regulations at 25 CFR Section 151. The Land Acquisition Policy presented in 25 CFR Section 151.3 states that, "land may be acquired for a tribe in trust status when that land is within the tribe's reservation boundaries; or is already owned by the tribe; or the Secretary of the Interior determines that land acquisition is necessary to facilitate tribal self-determination, economic development or Indian housing."

By virtue of the United States holding land in trust status for a federally-recognized Indian tribe, the tribe is provided the following: (a) exemption of the lands from State and local

taxation; (b) protection of the lands against alienation; (c) the ability to exercise tribal sovereignty over the land; and (d) the opportunity for the tribe to avail itself of federal laws that apply to lands held in trust status, including, but not limited to, the Indian Gaming Regulatory Act. These features of trust status are intended to foster and protect a tribe's culture and society, political self-determination, self-sufficiency, and economic growth. The conveyance of land into trust, pursuant to 25 USC § 465, is an appropriate and recognized means of furthering the U.S. government's policy to support and protect federally recognized Indian tribes.

Alternatives

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

There are a total of seven alternatives being evaluated. The selection of these alternatives reflects the public comments received during the scoping process and NEPA requirements in general. For reference purposes they have been designated A through G. 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. Under both Alternative A (Proposed Action) and Alternative B (Phased Acquisition of 35,000 acres) the entire 17,370 acres of land currently owned by the Nation is proposed for conveyance into trust.

However, under Alternative C (Group 1 and 2 Lands), Alternative D (Group 1 Lands Only), Alternative E (Turning Stone Casino Gaming Floor Tax Lot), and Alternative F (Alternate Trust Land Grouping) the lands proposed for trust conveyance occupy less than the total of 17,370 acres. The lands that would be conveyed into trust in any of these alternatives would be under the sovereign control and regulatory jurisdiction of the Oneida Nation and they would not be subject to taxation. On the other hand, in these four alternatives and in Alternative G there are lands that would be omitted from trust status, and the effects on those omitted lands are being evaluated within the following potential taxation/jurisdictional scenarios:

- **Property Taxes Paid (PTP)** – In this scenario the property taxes related to the lands not entering trust would be paid by the Nation and those lands would be under the regulatory jurisdiction of the State and local governments.
- **Property Taxes Not Paid and Foreclosure (PTNP-F)** – In this scenario the property taxes pertinent to the lands not entering trust would not be paid by the Nation and regulatory jurisdiction of those lands would be under the State and local

- governments. It is assumed that these properties would be foreclosed upon by local governments or sold by the Nation in advance of such foreclosures.
- **Property Taxes Not Paid and Dispute Continues (PTNP-DC)** – This scenario reflects essentially the current situation in that property taxes relevant to lands omitted from trust would not be paid by the Nation although the position of the State and local governments has been that tax payments would be obligatory. Similarly, the Nation would exercise jurisdiction on these lands while the State and local governments would dispute this regulatory control.
 - **Casino Closes and All Enterprises Close (CC-AEC)** - Under Alternative G- No Action none of the Nation owned lands would be taken into trust, the Turning Stone Casino would be assumed to be an illegal gaming operation in New York State and it along with all SavOns 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 in this scenario it would not have revenue to pay taxes and all of the 17,370 acres would be alienated or foreclosed.

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

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

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

Group 1 lands (3,428 acres) are generally associated with the Turning Stone Resort & Casino (TSRC), the Nation's tribal gaming casino, its associated lodging and restaurants, five golf courses, and related resort support facilities.

Group 2 lands (6,475 acres) are generally associated with the Nation's government and cultural facilities, housing, health, education, and hunting as well as lands currently being used for Nation enterprises such as convenience stores, service stations, newspaper operations, marinas, and agriculture.

Group 3 lands (7,467 acres) are generally undeveloped, active and inactive agriculture, and include some lands in the Town of Stockbridge, Madison County, that are subject to a competing sovereignty claim by the Stockbridge-Munsee Community of Wisconsin, an Indian tribe located in the State of Wisconsin.

Collectively, the three Groups constitute the 17,370 acres of lands proposed for trust conveyance under Alternative A. Overall, Alternative A includes all Nation government services, all 98 member residences, the Turning Stone Resort & Casino, 13 SavOn stations, three marinas and all other Nation enterprises, 11,451 acres of agriculture and related operations, 4,227 acres for hunting and fishing lands, 3,106 acres of wetlands, and all important Oneida historic, archaeological, and cultural resources.

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

Alternative B - Phased Acquisition of 35,000 Acres

In February 2002, New York State announced that it, the Nation, and Madison and Oneida Counties had agreed on the framework of a land claim settlement that included 35,000 acres to be held and governed by the Nation. To date, no settlement has been reached. However, an alternative that includes the potential acquisition of 35,000 acres in trust would be consistent with this settlement framework and could also be responsive to comments received during the scoping process that stressed the importance of a contiguous group of Nation lands that share a unified border or boundary, and others that expressed concerns over jurisdictional issues that could arise from interspersed Nation and non-Nation lands. Properly located, the acquisition of additional lands can further the compactness of the Nation's land base.

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

Alternative C - Group 1 and 2 Lands

With this alternative, Group 1 and 2 lands (approximately 9,903 acres) would be conveyed into trust, while Group 3 lands would possibly be subject to a separate future trust acquisition and environmental review process. Combined, the Group 1 and 2 lands that comprise Alternative C include the Turning Stone Resort & Casino, as well as lands associated with all the Nation's government and member services, 85 member residences, health and education centers, and 5,409 acres of agriculture, 2,235 acres of hunting and fishing lands, 2,263 acres of wetlands and lands in current use for other Nation enterprises

such as convenience stores, 13 SavOn service stations, newspaper operations, and marinas. The proposed trust lands would also contain a large number of historic, archaeological, and cultural sites. The Alternative C lands occupy approximately 7,986 acres or 1.0 percent of the land area of Oneida County and approximately 1,917 acres or 0.4 percent of the land area of Madison County. Collectively, the 9,903 acres represent approximately 0.8 percent of the total land area of both counties.

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

Alternative D - Group 1 Lands Only

Alternative D would include only the lands that are part of Group 1, i.e., the lands that comprise the Turning Stone Resort & Casino and its related facilities. This alternative was developed in response to comments made during the scoping process to limit lands acquired in trust to the resort-casino complex and associated lands. With this alternative, 3,428 acres, or 0.4 percent of Oneida County, would be conveyed into trust. Alternative D includes two member residences, the Turning Stone Resort & Casino, one SavOn station, 1,549 acres of agricultural land, 843 acres of wetlands, and a small number of identified archeological sites.

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

Alternative E - Turning Stone Casino Gaming Floor Tax Lot

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

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

Alternative F - Alternate Trust Land Grouping

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

Alternative F, which totals 11,986 acres, encompasses an area of about 10 by 14 miles; in comparison Alternative A is 17,370 acres and spreads over a roughly 20 by 20 mile area. Thus while Alternative F occupies 69 percent of the Alternative A land acreage, it is arrayed across a region that is only 35 percent of that of the Proposed Action. This area was the location of the principal Oneida villages from 1635 to 1850 as they developed along Oneida Creek, including major ones documented at the Sterling site and at Kanonwalohale (Oneida Castle) which is the home of the Oneida stone. These are among the many significant Oneida archaeological sites that were considered to be an important "cultural compactness" factor in formulating Alternative F. Functionally, Alternative F includes the majority of member housing, most of the Nation's enterprises, all the Nation's government facilities, and all of the properties containing member services. The parcels

within Alternative F are for the most part located within a reasonably short driving time of around 15 minutes from each other.

Overall, Alternative F includes all Nation government services, 80 member residences, the Turning Stone Resort & Casino, 13 SavOn stations, two marinas and all other Nation enterprises, 7,168 acres of agriculture and related operations, 3,294 acres for hunting and fishing, 2,537 acres of wetlands, and the great majority of historic, archaeological, and cultural resource sites. Alternative F covers approximately 9,834 acres or 1.2 percent of the land area of Oneida County and approximately 2,152 acres or 0.5 percent of the land in Madison County. Collectively, the 11,986 acres represent about 1.0 percent of the total land area of both counties.

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

Alternative G - No Action

Under the No Action Alternative, the U.S. would not acquire any lands from the Nation to be held in trust.

Under the **Casino Closes and All Enterprises Close (CC-AEC)** scenario it is assumed that the State's position on the legality of the casino and on the tax free sales of tobacco and fuel would prevail. As a result, the Nation's gaming, tobacco, and fuel businesses would be shut down resulting in a loss of over 5,000 jobs. The disposition of the Nation's 17,370 acres of land under this scenario of the No Action Alternative would be as follows:

- Turning Stone Resort & Casino – The Turning Stone Resort & Casino would cease operations. The associated Turning Stone Resort & Casino lodging and other related supporting resort facilities would also close and the \$300 million-plus debt service would create a debilitating financial burden that would bankrupt the Nation.
- Other Nation enterprises – The other Nation enterprises would not be viable business operations and with the added property, sales and excise taxes would be closed.
- Nation government services and affairs – The respective localities for all of these services would not be under the Nation's sovereign control and the Nation would not be able to fund them. As a result, many of the Nation's functions and services would be discontinued or severely limited. The Nation's health, family services, recreation, and cultural enrichment programs would rely heavily on federal funding to sustain themselves.

- Nation member housing – The Nation’s housing program would rely primarily on federal funding to sustain it. Lands upon which the current 98 member residences exist would not be under the Nation’s sovereign control. Plans to provide future homes to Nation members would likely be discontinued.
- Cultural and historic resources – The Nation’s current cultural, historic, and archaeological resources would not be under the Nation’s sovereign control and its corresponding protection. The Nation has been active in preserving, protecting, and revitalizing tribal culture through cultural education, site protection, and creation of a comprehensive repository for materials that have historic importance to the Nation.
- Hunting and fishing, wetlands mitigation, and agriculture – Hunting and fishing lands, the wetlands mitigation bank, and the Nation’s agricultural operations would not be under the Nation’s sovereign control.

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

In the PTP scenario the taxes related to the 17,370 acres would be paid and those lands would be under the regulatory jurisdiction of the State and local governments. The Turning Stone Resort & Casino would continue to operate, and all other Nation enterprises including the SavOns and marinas would continue functioning. However, real estate taxes would be paid on all Nation lands. The State and local governments would have regulatory jurisdiction over all member residences, all of the Oneida cultural and archaeological localities, the wetland mitigation bank, the Black Angus Beef farm, all SavOn gas stations, the public marinas, the Turning Stone Resort & Casino, and all the land where facilities housing the Nation’s government services and member programs are located. The Nation would not have sovereign control over any of its lands, although it may continue to support its services and programs with revenues generated from its enterprises.

In the PTNP-F scenario taxes would not be paid and regulatory jurisdiction of the 17,370 acres would be under the State and local governments. Since taxes would not be paid on any lands, there would be an eventual foreclosure or alienation of the 17,370 acres. As this occurs all of the Nation businesses would be shut down, and its government services

and programs would cease in their current form and function relying completely upon federal funding. The Nation's land base would be eliminated except for the 32 acres.

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

Alternatives Eliminated From Further Study

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

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

It was concluded that these alternatives are impractical, unreasonable, infeasible or too speculative to warrant further consideration.

Ongoing & Planned Nation Development Projects & Activities

In addressing potential environmental consequences it is necessary to identify reasonably foreseeable future actions by the applicant (the Nation) or others. This provides the basis for an assessment of cumulative effects of past, present and future actions. With regard to the latter, the BIA has selected a five-year planning horizon. The proposed land trust conveyance involves the transfer of title to Nation lands to the Federal government with no change in use of the subject properties or any ground-disturbing activities. The Nation's reasonably foreseeable future projects, as well as, projects that are currently ongoing are unrelated to this Federal action and do not require that lands be conveyed into trust. The Nation has indicated by way of formal letters (June 22 and August 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 and member housing. These are described below but as noted above, these projects and activities are not directly related to the Trust Application as they would be carried out in any event:

- 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;
 - A new comfort station at the Atunyote golf course (scheduled to begin in fall 2006 - anticipated completion late fall 2006 or early spring 2007);
 - Three new indoor tennis courts located within a dome and three outdoor tennis courts with lighting (scheduled to begin summer 2006 - anticipated completion spring 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 in summer 2006 - anticipated completion 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 enterprises and has no plans to open new business operations or to expand the existing ones onto undeveloped lands. Minor remodeling of SavOn gas stations and conveniences stores may take place.
 - Nation government services and affairs – All of these services 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. There are 66 member families on the waiting list for future residences, but their locations have not all been determined at this time. As stated earlier the Nation member housing program is not related to the trust action.
 - Deteriorated Structures – The Nation has identified 58 properties where demolition of unsafe or unsound structures is to occur. As of August 2006, deteriorated structures (e.g., non historic or architecturally unique homes, barns, silos, sheds, mobile homes) on nine properties have been demolished and the rest are pending. Prior to removing any of these structures the Nation conducts an evaluation, including an assessment of cultural value and National Register

- eligibility, of each. As stated earlier the demolition program is not related to the trust action and will be completed in 2006.
- 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 an increase, depending on market conditions, in the Black Angus herd and crop production on some presently unused property that is suitable for agriculture.

Overall, the future uses planned for the Nation's lands are similar to their existing usages. All present utility and related service easements and respective access would remain in place resulting in no interruption to necessary maintenance by a utility. The lands in question would be regulated under applicable Federal laws and the Nation's policies; ordinances for environmental protection, health and safety, land use, zoning, and cultural, historic or archaeological resources; and codes for housing, vehicles, and traffic.

Potential Nation Development Projects

According to the Nation, in addition to the projects that are either under construction or slated for construction in the near future, there are other potential projects associated with the Turning Stone Resort & Casino that the Nation is evaluating. These projects are not related to the trust action. All of these potential projects are compatible with the current use of the Turning Stone Resort & Casino and the objectives to create and maintain the facility as a destination resort. No decision has been made with respect to any of these potential projects as some, all, or none of the facilities may be built. These potential projects are in an exploratory stage of planning and the Nation has indicated that they do not have designs, construction details or contracts for any of these projects. These exploratory projects include:

- Adding second floor casino space to the existing building;
- Relocation of an existing driving range;
- Changes to the Turning Stone Resort & Casino internal road system;
- Landscaping attractions to the outside circle and entrance to the Tower Hotel and Winter Garden at Turning Stone Resort & Casino;
- Construction of an additional 18-hole championship caliber golf course;

- Construction of an additional 200 to 300 hundred hotel rooms connected to the casino complex;
- Construction of an Employee Center (“team member” facility) adjacent to the existing employee entrance to the casino complex containing amenities for employees such as a human resources department, employee services and employee store; and
- Construction of a stand-alone Wedding Pavilion.

Potential Environmental Effects

The following summary of potential environmental and socioeconomic effects is presented with respect to Alternatives A-G. In this section the significant, notable and/or most salient consequences of all of the alternatives are highlighted. Not all of the resource or value categories are discussed because a number of them would exhibit no effect or a less than significant effect due to the implementation of any of the alternatives. In the conveyance of lands into trust status there are no direct effects to the physical environment since no ground disturbance occurs. The resource categories that would not be significantly affected by any alternative include: topography, soils, geology, surface water, groundwater, wetlands, air quality, wildlife, vegetation, ecosystems/biological communities, agriculture, some broader social conditions, mining, recreation, transportation, wilderness, noise, light, visual, public health and safety, and growth inducement. On the other hand, the various proposed trust transfers within the respective alternatives may have more significant effects on New York State, the local communities, or the Nation. These consequences are most evident in the resource or value categories that include: land use planning and zoning, historic and archaeological resources, cultural values, local community and Nation government services, employment and income, housing and demographics, taxation, hunting and fishing resources, regulatory jurisdiction, and environmental justice.

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

Under Alternative A (and B) the largest area of currently owned Oneida Nation lands, 17,370 acres, would be conveyed into trust in comparison to the other alternatives. Alternatives A and B contain the most proposed trust land area in all use categories, including all 98 member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 11,451 acres of agriculture, 4,227 acres for hunting and fishing, and 3,106 acres of wetlands. Alternatives A and B are also the only ones that would accommodate in trust all Nation lands containing social, cultural, and religious practices as well as all historical and archaeological resources (all 157 identified archaeological sites). Cultural and historic properties across all 17,370 acres would have the added Federal protection of ARPA (archaeological sites on public and Native lands) and NAGPRA (Native American graves) and be under Oneida stewardship. Alternatives

A and B include every significant cultural facility owned by the Oneida such as the Shako:wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, traditional croplands plus cultural service departments. All existing uses on the 17,370 acres of Nation trust lands would generally continue. There would be no lands in Alternative A that would be omitted from trust and possibly subject to foreclosure or alienation.

In all alternatives, except Alternative G No Action, portions of Nation trust lands would be interspersed with non-Nation lands. The State and local governments have asserted that this would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use or environmental regulations. The extent of this potential effect would partially depend on the different amounts of land entering trust in the various alternatives and in which municipalities. In most areas there is general consistency in uses of Nation and non-Nation lands, and trust lands would be regulated under the Oneida Indian Nation Land Use Ordinance that requires development to be compatible with adjoining uses and under Nation policies to protect environmental resources. However, the State and local governments would not have regulatory control over all lands in the region. If there are changes in the future land use planning or zoning regulations by either the Nation or local governments consistent application could be affected.

In 2005, the Turning Stone Resort & Casino employed 3,779 people and SavOns 279. In the next 5 years, a modest increase would be expected in Turning Stone Resort & Casino jobs of about 50 per year due to an increase in visitors (increases 3.1 percent annually) to a total of 4,033. SavOn and other Nation enterprise jobs (65) would remain constant. Current Nation government employment would increase from 488 to 505. Total Nation employment would be expected to grow from 4,611 to 4882. There would also be a modest net increase in jobs at non-Nation local businesses from 912 (\$31.9 million in earnings) to 963 (\$33.6 million) due to multiplier spending by the Nation and its employees plus added jobs and earnings from off-site visitor spending. Under Alternatives A, B, C, and F there would be no significant change of employee in-migration in next 5 years (estimated increase of 261 into the two counties) due to limited employment growth and the high proportion of local hiring. The estimated increase of school aged children over five years would be insignificant because of the small total population change.

Under Alternative A, as in B, C and F, all current government programs and services would be maintained including health, education, housing, recreation and cultural activities, day care, and public safety.

Under Alternative A, all Group 1, 2, and 3 lands would be exempt from property taxes which would have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$2.7 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The Nation has paid taxes to the City

of Oneida and to Sherrill along with grants and payments to local governments for a total of \$38.5 million since 1995 although these latter may not be continued in the future. It is expected that the Nation will continue to pay local governments for services provided. Nation employees paid an estimated \$5.6 million in local property taxes in 2005 and the Nation withheld and remitted \$3.3 million in New York State income taxes from its employees in 2005. In addition, the multiplier effect of the Nation and employee spending stimulated \$7.3 million of New York State personal income, business, and sales taxes and another \$1.2 million in local sales taxes. In Alternative A, all these figures would increase with the anticipated job growth of the Nation enterprises. Finally, the Nation paid \$2.2 million and \$2.8 million, respectively, to the New York State Police and the New York Racing and Wagering Board for their services to the Turning Stone Resort & Casino which would be expected to continue in the future.

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

Implementation of any alternative would have no disproportionate adverse effect on any low-income or clearly identified minority community. However, there could be potential effects on the resources of the Oneida Nation which as a local Native American community is subject to an environmental justice assessment. Conveying Nation lands into trust under Alternatives A – F would be a beneficial effect on the Nation allowing for its self-governance and control of lands considered by the Oneida as ancestral homeland and within their reservation. This would involve a relatively small portion of the Nation's reacquired lands in Alternative D and a minor fraction of them in Alternative E (only 225 acres). Lands omitted from trust in Alternatives C through F would not be provided the archaeological protection of the ARPA and the NAGPRA. The alienation or foreclosure of these lands (under the PTNP-F scenario) including the loss of Nation member residences as well as the loss of government services and programs, hunting and fishing lands, agriculture, and cultural resources would be an effect predominately borne by Native American populations and the Oneida Nation. This effect would be highly significant in Alternatives D and E and much less significant in Alternatives C and F.

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

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

Under Alternative B the largest area of land, 35,000 acres, would be conveyed into trust in comparison to all the other alternatives. In this alternative the 17,370 acres of existing Nation lands would enter trust along with an additional unidentified 17,630 acres. As mentioned, Alternatives A and B contain the most proposed trust land area in all use categories, the only ones that would accommodate in trust all Nation lands containing social, cultural, and religious sites as well as all historical and archaeological resources, and they would also include every significant cultural asset and facility owned by the Oneida. It is likely that under Alternative B there would be an increase in many of the above land uses as the additional 17,630 acres are conveyed into trust. All existing uses on the 35,000 acres of Nation trust lands would generally continue. There would be no lands in Alternative B that would be omitted from trust and possibly subject to alienation or foreclosure.

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

As in Alternative A, the total Nation employment in the next five years would be expected to grow from 4,611 to 4882. There would be the same net increase in jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children would be insignificant because of the small total population change. Under Alternative B all current government programs and services would be maintained, and would likely be increased to accommodate the additional 17,630 acres of trust lands.

Under Alternative B, 35,000 acres would be exempt from property taxes which would be an adverse effect on the local government revenues. The annual property tax on these lands is estimated at \$5.4 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on State and local taxes would be the same as Alternative A. In Alternative B all these figures would increase with the

anticipated job growth of the Nation enterprises and as more land is acquired to reach the total of 35,000 acres. Payments to the New York State Police and the New York Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

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

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

Effects of Alternative C: Group 1 and 2 Lands

Under Alternative C 9,903 acres, would be conveyed into trust. Alternative C contains 85 member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 5,409 acres of agriculture, 2,235 acres for hunting and fishing, and 2,263 acres of wetlands. Alternative C would accommodate in trust a relatively large part of Nation lands that contain social, cultural, and religious practices as well as historical and archaeological resources (100 or 64 percent of the identified archaeological sites). Alternative C also includes the majority of significant cultural assets and facilities owned by the Oneida. All existing uses on the 9,903 acres of Nation trust lands would generally continue.

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

The State and local governments have asserted that the interspersing of Nation with non-Nation lands as in Alternative C would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Development would be regulated under the Nation's Land Use Ordinance that requires future uses to be in harmony and compatibility with adjoining uses. Similarly, the jurisdiction over environmental regulations on all lands that enter trust would be under the Nation's governance including its policies to protect environmental resources. In either PTP or PTNP-F all lands omitted from trust would be regulated under the jurisdiction of

State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. In **PTNP-DC** the current situation would be maintained whereby regulatory jurisdiction is disputed between the Nation and State and local governments.

In Alternative C the total Nation employment in the next five years would be expected to grow from 4,611 to 4874, just slightly less than in Alternatives A and B. There would be an increase of 48 jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children would be insignificant because of the small total population change. Under **PTP** or **PTNP-DC** there would be the same modest increases in employment. Under **PTNP-F** Group 3 lands would be foreclosed or alienated with the loss of agricultural related jobs and 13 current nation residences. With 7,467 acres of property entering the real estate market there would likely be a reduction in property values in the region.

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

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

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

Under Alternative C there would be neither direct physical adverse effects nor significant increases in demand on community facilities and services related to police protection, fire protection, schools, or medical care/emergency services. All current and ongoing service agreements and cooperative service efforts would continue. Under **PTP**, the omitted Group 3 land tax revenue would support community services directly and all Nation

enterprises and activities could utilize those services. In PTNP-F, Group 3 lands eventually transfer ownership and new owner(s) could provide the tax revenue to support community services. Under PTNP-DC taxation and jurisdiction of Group 3 land would remain unresolved with the Nation service agreements continued.

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

Alternative C would secure a smaller land base compared to the Proposed Action and only partially fulfills the Nation's expressed purpose and need.

Effects of Alternative D: Group 1 Lands Only

Under Alternative D the fifth largest area, behind Alternative B, Alternative A, Alternative C, and Alternative F, of currently owned Oneida Nation lands, 3,428 acres, would be conveyed into trust. Alternative D contains two member residences, no government services, the Turning Stone Resort & Casino and all business enterprises, 1,549 acres of agriculture lands, no hunting and fishing lands, and 843 acres of wetlands. Alternative D would not accommodate in trust any of the Nation lands that contain social, cultural, and religious practices and only a few archaeological resources (six sites or only four percent of the identified archaeological sites). Alternative D includes none of the significant cultural assets and facilities owned by the Oneida. All existing uses on the 3,428 acres of Nation trust lands would generally continue.

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

The State and local governments have asserted that the interspersing of Nation with non-Nation lands as in Alternative D would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations.

Development would be regulated under the Nation's Land Use Ordinance that requires future uses to be in harmony and compatibility with adjoining uses. Similarly, the jurisdiction over environmental regulations on all lands that enter trust would be under the Nation's governance including its policies to protect environmental resources. In either **PTP** or **PTNP-F** all lands omitted from trust would be regulated under the jurisdiction of State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. In **PTNP-DC** the current situation would be maintained whereby regulatory jurisdiction is disputed between the Nation and State and local governments.

Under Alternative D, the total Nation employment is expected to decrease from 4,611 to 4,581. There would be a loss of 59 jobs at non-Nation local businesses. With job loss there would be correspondingly some employee out-migration in the next five years. There would be no new member residences built. An increase of school aged children in the next five years would be insignificant. Similar changes would be expected under **PTP** or **PTNP-DC** as in Alternative A. Under **PTNP-F** Group 2 and 3 lands would be alienated or foreclosed and there would be a loss of 301 Nation enterprise jobs including those at 12 SavOns, the marinas and agricultural operations. There would also be a significant loss of all current 96 member residences with a resulting potential out-migration. With 13,942 acres of property entering the real estate market there would likely be a reduction in property values in the region.

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

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

In **PTP** the property taxes on the omitted Group 2 and 3 lands (\$1.7 million) would be paid. Under **PTNP-F** taxes would not be paid and the Group 2 and 3 lands eventually would be alienated or foreclosed and the new owners would be responsible for paying the property taxes. The loss of jobs would result in a reduction of income, property and

multiplier effect related taxes. In PTNP-DC taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or foreclose for non-payment of taxes.

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

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

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

Effects of Alternative E: Turning Stone Casino Gaming Floor Only

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

Under Alternative E, 17,145 acres of Nation owned lands would be omitted from trust. These lands include all member housing, all government services, all hunting and fishing lands, all wetlands, all of the cultural and archaeological lands, all important agricultural activities, and many Nation businesses including 12 SavOns and the marinas. Under PTNP-F all of these omitted lands would be subject to possible alienation or foreclosure.

These omitted lands could be retained in **PTP** with state/local regulation. This would be similar in **PTNP-DC** with the regulatory jurisdiction in dispute between the Nation and State and local governments.

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

Under Alternative E, 3,406 jobs at the casino would continue but there would be an overall decrease of 627 Turning Stone Resort & Casino and 231 SavOn jobs. There would also be a reduction of 76 Nation government jobs. The total Nation employment would fall from 4,611 to 3,940. There would be 177 jobs lost at non-Nation local businesses. Substantial job loss would result in out-migration of 252 people. There would be changes similar to Alternative A under **PTP** and **PTNP-DC**. Under **PTNP-F**, 17,145 acres of land would be alienated or foreclosed and there would be a loss of all associated Nation enterprise jobs (933) including those at 12 SavOns, marinas and agricultural operations. In addition, all 98 current member residences would be lost. With 17,145 acres of property entering the real estate market there would likely be a reduction in property values in the region.

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

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

In **PTP** the property taxes on 17,145 acres (\$2.7 million) would be paid. Under **PTNP-F** taxes would not be paid and the 17,145 acres would be alienated or foreclosed and the

new owners would be responsible for paying the property taxes. The loss of 933 jobs would result in a reduction of income, property and multiplier effect related taxes. In PTNP-DC taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or foreclose for non-payment of taxes.

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

Conveying 225 acres of Nation lands into trust would allow the Nation self-governance of a minor fraction of its total lands. However, the 17,145 acres of land omitted from trust would not have the archaeological protection of the ARPA and the NAGPRA. The alienation of the 17,145 acres (under the PTNP-F scenario) including the potential loss of 98 Nation member residences, government services and programs, hunting and fishing lands, agriculture, and all cultural resources would be an effect predominately borne by Native American populations and the Oneida Nation.

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

Effects of Alternative F: Alternate Trust Land Grouping

Under Alternative F 11,986 acres, would be conveyed into trust. Alternative F contains 80 member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 7,168 acres of agriculture, 3,294 acres for hunting and fishing, and 2,537 acres of wetlands. Alternative F would accommodate in trust a great majority of Nation lands that contain social, cultural, and religious practices as well as historical and archaeological resources (111 or 71 percent of the identified archaeological sites). Cultural and historic properties across the 11,986 acres of trust land would have the added protection under ARPA and NAGPRA, and be under Oneida stewardship. Alternative F includes most of significant cultural assets and facilities owned by the Oneida including the Shako: wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, plus cultural service departments. All existing uses on the 11,986 acres of Nation trust lands would generally continue.

Under Alternative F, 5,384 acres of land would be omitted from trust. These lands include important agricultural activities such as the Heifer Hotel, crop/livestock rentals, the Black

Angus herd and the Three Sisters traditional cropland. Also, there are some significant archaeological sites that would be excluded from trust and not have the added protection of ARPA and NAGPRA. Under **PTNP-F** all of these omitted lands would be subject to possible alienation or foreclosure. These omitted lands could be retained in **PTP** with the archaeological sites receiving only state/local regulation and NHPA 106 protection. This is similar in **PTNP-DC** with the regulatory jurisdiction in dispute between the Nation and State and local governments.

The State and local governments have asserted that the interspersing of Nation with non-Nation lands as in Alternative F would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Development would be regulated under the Nation's Land Use Ordinance that requires future uses to be in harmony and compatibility with adjoining uses. Similarly, the jurisdiction over environmental regulations on all lands that enter trust would be under the Nation's governance including its policies to protect environmental resources. In either **PTP** or **PTNP-F** all lands omitted from trust would be regulated under the jurisdiction of State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. In **PTNP-DC** the current situation would persist whereby regulatory jurisdiction is disputed between the Nation and State and local governments.

In Alternative F the total Nation employment in the next five years is expected to grow from 4,611 to 4872, slightly less than Alternatives A and B. There would be an increase of 47 jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children in the next five years would be insignificant because of the small total population change. Under **PTP** or **PTNP-DC** there would be the same modest increases in employment. Under **PTNP-F** 5,384 acres of land would be alienated or foreclosed and there would be a loss of agricultural related jobs and 18 current nation residences. With 5,384 acres of property entering the real estate market there would likely be a reduction in property values in the region.

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

Under Alternative F, 11,986 acres of trust land would be exempt from property taxes which would have an adverse effect on local government revenues. The annual property tax on these lands is estimated at over \$2.5 million (2005) not including the contested

assessment of the Turning Stone Resort & Casino. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on State and local taxes would be similar to Alternative A. In Alternative F, as in A, B, and C, all these figures would increase with the anticipated job growth of the Nation enterprises. Finally, the payments to the New York State Police and the New York Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future.

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

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

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

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

Effects of Alternative G: No Action

Under Alternative G none of the Nation's lands would be conveyed into trust. Under the CC-AEC scenario, it is assumed that the State would successfully assert that the Turning Stone Casino is illegal and it along with all of the other Nation enterprises would cease operations. This would bankrupt the Nation. Under Alternative G no member residences, no government services, the TRSC nor other Nation business enterprises, no agricultural land, no hunting and fishing lands and no wetlands would be transferred into trust.

Alternative G would not accommodate in trust any of the Nation lands that contain social, cultural, and religious practices or archaeological resources. None of the significant cultural facilities owned by the Oneida including the Shako: wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, traditional croplands or cultural service departments would be placed into trust.

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

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

Under **CC** or **PTNP-F** there would be a significant loss of all 3,779 jobs at Turning Stone Resort & Casino and all 279 at SavOns with the associated loss in earnings. All jobs at other Nation enterprises (65 jobs) and most of its government jobs (450) would be terminated; without the multiplier related income at local businesses associated job growth would not occur and 946 jobs would be lost. There would be a significant total loss of jobs of 5,773 of which 4,992 are residents of Madison and Oneida Counties, causing related unemployment impacts there. Also, in **CC-AEC** or **PTNP-F**, 17,370 acres of land would be alienated or foreclosed and all 98 current member residences would be lost, a significant adverse effect. With 17,370 acres of property entering the real estate market there would likely be a reduction in property values in the region. Under **PTNP-DC** and **PTP** jobs and earnings would increase as in Alternative A.

Under **CC-AEC** or **PTNP-F** in Alternative G, none of the current government programs and services would be maintained including health, education, housing, recreation and cultural activities, day care, and public safety. They are all located on lands that would be alienated and they could no longer be supported by Nation enterprise revenues. These programs would have to rely solely on Federal funding. Under **PTP** and **PTNP-DC** all government programs would be continued and spending would be based on enterprise revenues.

Under **CC-AEC** or **PTNP-F**, the Turning Stone Resort & Casino and virtually all Nation enterprises would cease operations, taxes could not be paid and eventually all Nation lands would be alienated or foreclosed. The loss of jobs and vendor contracts would further reduce tax revenues. The loss of Nation enterprise jobs would result in a \$3.3 million reduction of state income tax withholdings and declines in employee property and

local sales taxes. The multiplier effect of the Nation and employee spending would decrease significantly. The annual payments to the New York State Police and the New York Racing and Wagering Board for their services to the Turning Stone Resort & Casino would be discontinued. No Nation lands would be exempt from property tax rolls but new owner(s) would be responsible for paying property taxes (\$2.7 million). PTP and PTNP-DC would be similar in effect to Alternatives A, B, C, and F.

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

Under the CC-AEC or PTNP-F scenario, no Nation lands enter trust and the Nation would not exercise self-governance and control of any reacquired lands considered by the Oneida as ancestral homeland and within their reservation. There would be a significant adverse effect on the Nation limiting its income producing capability and impacting the viability of its social, health, and cultural programs. All 17,370 acres of land omitted from trust would not have the archaeological protection of the ARPA and the NAGPRA. The alienation of the 17,370 acres (under the PTNP-F scenario) including the potential loss of 98 Nation member residences, government services and programs, hunting and fishing lands, agriculture, and all cultural resources would be an effect predominately borne by Native American populations and the Oneida Nation.

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

Mitigation

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

The Nation’s activities, programs, and relationships with the surrounding communities demonstrate a pre-existing pattern and practice of mitigation of the types of effects that have been identified. This is particularly notable regarding the key issues of taxation and regulatory jurisdiction. On the fiscal side, the Nation’s various payments to local

governments and the positive economic benefits from the Nation's enterprises serve to mitigate fiscal effects that have been identified. Overall, the revenues generated by the Nation's enterprises exceed the amounts that would be received in taxes without those revenues. With respect to potential regulatory effects, the Nation has implemented and administered its own regulatory scheme, which covers a broad spectrum of environmental and related issues. Moreover, the Nation's lands would be subject to Federal environmental laws and regulations. The Nation has consulted with State and local jurisdictions informally or on a government-to-government basis on matters of mutual concern. The Nation is committed to the continuance of these policies and programs along with cooperative dialogue in the broad sense of mitigating any potential adverse effects resulting from the proposed conveyance of its lands into trust.

Specific mitigation pertaining to individual resource and value categories is briefly described below, with more details provided in Section 5.0.

Taxes

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

- \$5.6 million in local property taxes paid by Nation employees;
- \$3.3 million in State income taxes remitted from its employees;
- \$7.3 million in New York State tax payments for personal income, business, and sales taxes along with \$1.2 million in local sales tax revenues for Madison and Oneida Counties all stimulated by Nation vendors and employees;
- \$2.2 million and \$2.8 million, respectively, to the New York State Police and the New York Racing and Wagering Board for their services to the Turning Stone Resort & Casino which would be expected to continue in the future; and
- Continued payments to local governments through community service agreements.

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

Regulatory Jurisdiction

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

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

Land Use Planning and Zoning

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

Surface Water

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

Under scenarios whereby the Turning Stone Resort & Casino and its attendant facilities would increase demand on water supply and wastewater, the Nation has demonstrated its past support and commitment to surface water protection by funding the expansion of the wastewater treatment plant; requiring that contractors conducting construction activities at the Nation agree to adhere to the conditions of the NYSDEC State Pollutant Discharge Elimination System General Permit for Storm Water Discharges from Construction Activities; funding studies, in cooperation with local governments, in order to locate new sources of water; and funding 100% of a new water and sewer line and a water tower in the town of Verona. In addition the Nation has implemented numerous ongoing water conservation measures to avoid or mitigate the effects of increasing water demands in their

operations. The Nation would continue to develop and support water resource protective actions in the future.

Employment

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

Traffic

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

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

Historic, Cultural and Archaeological Resources

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

Government Services

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

The Nation's increased demand for healthcare, emergency medical services, fire protection and other community supplied services would not be enough to require construction of

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

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

Lifestyles and Cultural Values

Alternatives D, E, and G would exclude all the key lands from trust conveyance with respective cultural facilities owned by the Oneida. Under the PTNP-F or CC-AEC scenarios where these lands would be alienated or foreclosed, there would be a direct significant adverse effect on the Nation. While increased Federal or New York State funding, if it were available, could mitigate some of these effects, it could not mitigate the effect on Oneida cultural values, sense of community and self-identity that would result from the No Action Alternative, or Alternatives D and E. Such effects can only be avoided by providing the Nation with a land based homeland for its people where the Nation can exercise sovereignty, maintaining and supporting its lifestyles and cultural values.