

Executive Summary

Introduction

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

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

Placing lands into trust is a real estate transaction which gives the U.S. legal title to the lands involved. The process begins with the submission of a Trust Land Application to the BIA; in this case the Nation submitted a Trust Land 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 Land Application with the last of three comment periods ending on March 1, 2006. New York State and local governments made extensive comments with an emphasis on regulatory jurisdiction and taxation issues and generally opposing trust status for Nation lands.

The BIA 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 the cooperating agencies (the New York State Department of Environmental Conservation (NYSDEC), Madison County, and Oneida County), governmental agencies, the public, tribal entities, and other interested parties on the issues to be addressed in the EIS. A final Scoping Report was distributed and made available to all interested parties and cooperating agencies on July 28, 2006. The next step in the environmental review process was to prepare a Draft EIS. A pre-publication Draft EIS was provided to the cooperating agencies for review and comment. After revision by the BIA, the Draft EIS was subjected to review during a public comment period that was extended by the BIA from the required 45 days to a total of 90 days. This included two public hearings on December 14, 2006 and on February 6, 2007. The Final EIS, which is this document, was prepared taking into consideration the extensive comments on the Draft EIS. In this Final EIS, the BIA has evaluated a total of nine alternatives designated as Alternatives A through I. These include the Proposed Action (Alternative A) to convey 17,370 acres of Nation owned land to the U.S. government to be held in trust and the No Action Alternative (Alternative G), which would convey none of these lands into trust. These two alternatives are evaluated in the EIS along with seven other alternatives that consider the effects of varying amounts of Nation owned lands entering trust status. As the lead agency for the EIS, the BIA in conjunction with the Associate Deputy Secretary of the U.S. Department of the Interior have identified Alternative I as the Preferred Alternative; under Alternative I, 13,086 acres of Nation owned land would enter trust status.

The final step in the process will be for the BIA, in conjunction with the Associate Deputy Secretary, to prepare a Record of Decision. The general source of authority to acquire land for Indians (both tribes and individual Indians) is the Indian Reorganization Act of 1934 (IRA); the regulations are codified at 25 C.F.R. Part 151. The IRA gives the U.S. Secretary of the Interior the discretion to acquire land into trust for individual Indians and Federally-recognized Indian tribes. The IRA does not require the U.S. Secretary of the Interior to acquire any specific tract of land; any specific amount of land or to acquire any land at all; however, an acquisition of any amount of land less than the amount applied for should not be interpreted as to preclude future applications to take the subject lands into trust. Similarly, the U.S. Secretary of the Interior is not required to select among only the alternatives evaluated in the EIS, including the identified Preferred Alternative. 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 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 Nation sovereignty and control;
- assures the preservation of a homeland for those Nation members located elsewhere in New York State and throughout the U.S.;
- is restricted against future alienation and immune from New York State and local taxation and regulation unless otherwise provided for under Federal law;
- allows the Nation to avail itself of Federal laws that apply to lands held in trust status including the Indian Gaming Regulatory Act; and
- permits further growth and consolidation of Nation lands.

Commenters on the Draft EIS expressed the opinion that no lands need to be taken into trust in order to fulfill the Nation's need for economic self-sufficiency. Commenters have suggested that Alternative G - No Action Alternative would fulfill most of the listed purposes for the trust action and provide for the well being of Nation members.

Economic growth and diversification is only one element of a tribe's "need" for land and only one criterion that the BIA and U.S. Secretary of the Interior must consider. Further, a tribe need not be landless or suffering financial difficulties for the U.S. Secretary of the Interior to acquire land in trust for the benefit of the tribe. The purpose and need for the proposed Federal trust action are not secondary considerations under NEPA. Accordingly, the BIA must consider the extent to which the purpose and need would be met under each alternative in addition to the impacts of each alternative on the Nation, New York State, Oneida and Madison Counties, and the respective local communities. The U.S. Secretary of the Interior's final decision regarding a Trust Land Application will be based on the criteria contained in 25 C.F.R. Part 151.10.

The Oneida Nation of New York (the Nation) is a federally-recognized Indian tribe and a successor-in-interest to the historic Oneida, which fought with the colonists against the British in the Revolutionary War. The U.S. Department of the Interior also recognizes the Oneida of Wisconsin as a successor-in-interest to the historic Oneida that treated with the United States in 1794. The U.S., in 1794, acknowledged in the Treaty of Canandaigua an area in central New York State of about 300,000 acres to be the reservation and property of the Oneida. Thereafter, almost all of that land was alienated, mostly to the State of New York, which purchased the land in transactions usually not approved by the Federal government as required by the Trade and Intercourse Act of 1790. As the Oneida lost access to their historic reservation, they experienced poverty and economic hardships including higher unemployment, lower household income, lower levels of education,

inadequate health care, and limited home ownership. The Oneidas' inadequate land and economic base threatened the social, health, and cultural fabric necessary to ensure their continued existence in the State of New York.

The U.S. Secretary of the Interior recognizes the Oneida Indian Nation of New York as the successor-in-interest to the historic Oneida that remained on the New York Oneida Reservation. The U.S. Secretary of the Interior recognizes the Oneida Tribe of Wisconsin as a distinct and separate entity from the Oneida Indian Nation of New York. The Oneida Tribe of Indians of Wisconsin is included on the list of Federally-recognized tribes, published at 70 Federal Register 71194, 71196 (November 25, 2005) and operates under its own constitution adopted pursuant to the Indian Reorganization Act of 1934. The Oneida Tribe of Indians of Wisconsin continues to exercise sovereignty over its Wisconsin Reservation. A third tribe, the Oneida of the Thames is not on the list of Federally-recognized tribes. The Oneida of the Thames is recognized as an Indian tribe by the Government of Canada.

For the Oneida that remained in New York State, by 1920, their land base had been reduced to a 32-acre parcel in Madison County. Beginning in 1987, the Nation reacquired possession of some of the previously alienated lands for varied purposes such as cultural, social, agricultural, hunting, government, and housing, and for diversified business and economic development. By 1995, the Nation had reacquired over 3,000 acres and, by 2005, it had reacquired a total of 17,370 acres (The Nation also still owns the 32-acre parcel mentioned above).

The Nation asserts that all of the lands are within the Oneida Reservation. The Stockbridge-Munsee Community of Wisconsin asserts that some of these lands are located within a Stockbridge Reservation. The U.S. Secretary of the Interior will consider this dispute, to the extent appropriate, in the decision on the Nation's Trust Land Application. Consideration was given to this issue in the selection of the Preferred Alternative. The Nation now has a member housing area known as the Village of the White Pines, the Ray Elm Children & Elders Center, and governmental facilities 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 reacquired other culturally significant lands such as existing cemeteries, traditional longhouse locations, and former village sites. The Nation has constructed a diversified business structure that includes convenience stores, a newspaper publishing enterprise, gasoline stations, and a major destination resort known as the Turning Stone Resort & Casino. The Nation also maintains agricultural lands, hunting areas, marinas, and a Black Angus cattle herd. In addition, the re-gathering of the Oneida and the proceeds of economic development have permitted the Nation to develop Oneida language programs, education programs, and social and cultural programs; legal and justice services; and

medical programs including health insurance for Nation members and their families; job training programs; and child-care programs.

In 2005, the U.S. Supreme Court held in *City of Sherrill v. Oneida Nation*, 544 U.S. 197 (2005), that the Nation's reacquired lands were subject to taxation and explained that they would remain so unless accepted into trust by the U.S. pursuant to 25 U.S.C. § 465. As a consequence of the U.S. Supreme Court's decision, New York State and local governments now seek to tax and regulate the reacquired lands on which the Nation plans to continue its social, political, and economic development. The U.S. Supreme Court did not find that the U.S. Congress had disestablished or diminished the Oneida Reservation. The U.S. Supreme Court stated that "Section 465 [Section 5 of the IRA] provides the proper avenue for the OIN to reestablish sovereign authority over territory last held by the Oneidas 200 years ago" (*City of Sherrill*, 544 U.S. at 221). The U.S. Supreme Court explained, "Congress has provided a mechanism for the acquisition of lands for tribal communities that takes account of the interests of others with stakes in the areas governance and well being. Title 25 U.S.C. § 465 authorizes the U.S. Secretary of the Interior to acquire land in trust for Indians and provides that the land shall be exempt from New York State and local taxation" (*Id.* at 220). Before doing so, the U.S. Secretary of the Interior must consider the criteria provided at 25 C.F.R § 151.10, including the purpose for which the land will be used, the impact on the state and its political subdivisions resulting from the removal of the land from the tax roles, and jurisdictional problems and potential conflicts of land use which may arise. In accordance with the U.S. Supreme Court's instruction, the Oneida Nation submitted a Trust Land Application to the Eastern Regional Office of the Bureau of Indian Affairs on April 4, 2005.

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

The State of New York and local governments have expressed that the Nation's Turning Stone Resort & Casino cannot legally continue to operate in the absence of a valid State-Tribal gaming compact pursuant to the Indian Gaming Regulatory Act (IGRA). During the process of preparing the EIS, the status of the 1993 Nation-New York State Compact

was a matter of discussion between the Nation, New York State, and the U.S. Department of the Interior. On March 15, 2007, the Deputy Solicitor of the U.S. Department of the Interior sent a letter to the State of New York and the Oneida Indian Nation requesting their views on whether the U.S. Secretary of the Interior should reconsider the 1993 approval of the Nation-New York State Compact. New York State and the Nation responded by separate letters dated April 30, 2007. On June 13, 2007, the Associate Deputy Secretary of the U.S. Department of the Interior responded in letters to the Nation and New York State that “the 1993 Compact continues to be in effect for purposes of the IGRA.”

During the preparation of the EIS, the BIA has neither assumed nor purported that a decision to take the Nation’s gaming land into trust would necessarily end all disputes regarding the legality of the Turning Stone Casino. Although the BIA believes that a detailed discussion of the casino’s legality is beyond the scope of the EIS and is not appropriately resolved therein, the EIS does acknowledge that a decision to take the gaming lands into trust will not necessarily end all disputes regarding the operation of the Turning Stone Casino.

By virtue of the U.S. holding land in trust status for a Federally-recognized Indian tribe, the tribe is provided the following: exemption of the lands and conduct thereon from New York State and local taxation and regulation; protection of the lands against alienation; the ability to exercise tribal sovereignty over the land; and the opportunity for the tribe to avail itself of Federal laws that apply to lands held in trust status, including, but not limited to, the Indian Gaming Regulatory Act. These features of trust status are intended to foster and protect a tribe’s culture and society, political self-determination, self-sufficiency, and economic growth.

Alternatives

The provisions of NEPA regulation 40 C.F.R. §1500.14, the USDOJ Departmental Handbook 516 DM 4.10, and the BIA NEPA Handbook (Part 6) collectively require that any EIS study and comparatively present the consequences of the Proposed Action, the No Action Alternative, and reasonable alternatives.

The alternatives evaluated in the Final EIS are configured in ways that, to varying degrees, address the purpose and need of the Nation’s Trust Land Application, consider potential impacts on surrounding communities, and consider potential environmental consequences. An alternative was proposed by Madison and Oneida Counties during the comment period for the Draft EIS and this alternative (Alternative H: County Trust Land Alternative) has been included for analysis in this Final EIS. At this time, the BIA has identified nine alternatives that it considers to represent the reasonable range of alternatives for analysis in the Final EIS. The selection of these alternatives reflects the public comments received during the scoping process, hearings on the Draft EIS and NEPA

requirements in general. For reference purposes they have been designated as Alternatives A through I. As lead agency for the EIS, the BIA, in conjunction with the Associate Deputy Secretary of the Department of the Interior, has identified Alternative I as the Preferred Alternative. The U.S. Secretary of the Interior's final decision on the Trust Land Application may or may not closely resemble one of the alternatives evaluated in this Final EIS, including the Preferred Alternative. The U.S. Secretary of the Interior also must consider the other factors listed in 25 C.F.R. Part 151, the regulations relevant to the IRA.

In the preparation of the Nation's Trust Land Application, the BIA suggested that the Nation group its lands according to use. The Nation divided its 17,370 acres into three groups designated as Groups 1, 2, and 3 (the Groupings). Group 1 lands occupy about 3,428 acres and are generally associated with the Turning Stone Resort & Casino, the Nation's tribal gaming casino. Group 2 lands (6,475 acres) are generally associated with the Nation's government and cultural facilities, housing, health, education, and hunting as well as lands currently being used for Nation enterprises such as convenience stores, service stations, newspaper operations, marinas, and agriculture. Group 3 lands (7,467 acres) are generally undeveloped, active and inactive agriculture, and lands that are subject to a competing tribal claim by the Stockbridge-Munsee Community of Wisconsin, an Indian tribe located in the State of Wisconsin. It should be noted that these land groupings are not reflective of their economic value to the Nation but rather groupings of a functional nature. The Groupings have been used as a basis to define some of the nine alternatives.

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

However, under Alternative C (Group 1 and 2 Lands), Alternative D (Group 1 Lands Only), Alternative E (Turning Stone Casino Gaming Floor Tax Lot), Alternative F (Alternate Trust Land Grouping), Alternative H (County Trust Land Alternative), and Alternative I (Preferred Alternative) the lands proposed for trust conveyance comprise 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 sovereignty and regulatory jurisdiction of the Nation and they would not be subject to taxation. On the other hand, in these six alternatives and in Alternative G (No Action) there are reacquired lands that would be omitted from trust status, and the effects on those omitted lands are evaluated within the following potential taxation/jurisdictional scenarios:

- **Property Taxes Paid (PTP)** – In this scenario, the property taxes related to the lands not entering trust would be paid by the Nation and those lands would be under the regulatory jurisdiction of the New York State and local governments.
- **Property Taxes Not Paid and Foreclosure (PTNP-F)** – In this scenario, the property taxes on the lands omitted from trust would not be paid by the Nation, and regulatory jurisdiction regarding those lands would be under New York State and local governments. These properties might be foreclosed upon by local governments or alienated by the Nation in advance of such foreclosure (The foreclosure scenario is not arbitrary even though a Federal district court has disallowed the Madison and Oneida Counties’ attempts to foreclose on Nation lands, because the counties are appealing the district court’s rulings. Not knowing how this issue may be decided in the future relative to Nation lands not in trust makes the PTNP-F scenario a reasonable consequence for consideration.)
- **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, and regulatory jurisdiction over these lands would be in dispute between the Nation and New York State and local governments. (Prior to the U.S. Supreme Court’s 2005 decision in *City of Sherrill*, the Nation exercised jurisdiction over its lands. Following the U.S. Supreme Court’s decision, the Nation lacks sovereignty over the lands as a matter of law. The full effect of *City of Sherrill* on tribal versus New York State and local jurisdiction is a subject of dispute between the Nation and New York State and local governments.)
- **Casino Closes and All Enterprises Close (CC-AEC)** - Under Alternative G- No Action none of the Nation owned lands would be taken into trust, the Turning Stone Resort & Casino is assumed to be an illegal gaming operation in New York State and it along with all SavOn gas stations and convenience stores and other Nation enterprises which would be subjected to full taxation would cease operations. The Nation would not have sovereign control over any of its reacquired lands. It is the Nation’s position that in this scenario it would not have revenue to pay taxes and all of the 17,370 acres might be alienated or foreclosed. (It should be noted that the lawfulness of the Turning Stone Casino is still a matter of dispute.)

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

The lands subject to trust conveyance under Alternatives A through F, H, and I are all currently owned by the Nation and located within the Oneida’s 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 contain a description 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 divided its lands according to use into the following three groups:

- Group 1 lands (3,428 acres) are generally associated with the Turning Stone Resort & Casino, the Nation's tribal gaming casino, its associated lodging and restaurants, five golf courses, and related resort support facilities;
- Group 2 lands (6,475 acres) are generally associated with the Nation's government and cultural facilities, housing, health, education, and hunting as well as lands currently being used for Nation enterprises such as convenience stores, gas service stations, a newspaper operation, marinas, and agriculture; and
- Group 3 lands (7,467 acres) are generally undeveloped, active and inactive agriculture, and include some lands in the Town of Stockbridge, Madison County, that are subject to a competing tribal land claim by the Stockbridge-Munsee Community of Wisconsin, an Indian tribe located in the State of Wisconsin.

Collectively, the three Groups constitute the 17,370 acres of lands proposed for trust conveyance under Alternative A. Overall, Alternative A includes all Nation government services, all 98 Nation member residences, the Turning Stone Resort & Casino, 13 SavOn gas stations and convenience stores, three marinas, and all other Nation enterprises, 12,824 acres of agricultural lands and related operations, 4,227 acres of land used for hunting and fishing, 3,106 acres of wetlands, and lands containing historic, archaeological, and cultural resources. Note that these acreage figures represent parcels that may be included in multiple land use categories, i.e. the same parcel of land may have a combination of agricultural, hunting and fishing or wetlands uses.

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

Alternative B - Phased Acquisition of 35,000 Acres

In February 2002, New York State announced that it, the Nation, and Madison and Oneida Counties had agreed on the framework of a land claim settlement that included 35,000 acres to be held and governed by the Nation. To date, no settlement has been reached. However, an alternative that includes the potential acquisition of 35,000 acres in trust would be consistent with this settlement framework and could also be responsive to comments received during the scoping process that stressed the importance of a contiguous

group of Nation lands that share a unified border or boundary, and others that expressed concerns over jurisdictional issues that could arise from interspersed Nation and non-Nation lands. As a result, the BIA proposed Alternative B for evaluation in the EIS. This alternative is intended to provide an analysis to determine potential consequences in the event that the earlier land claim settlement discussions (which contemplated a 35,000-acre area) between the Nation, New York State, and Oneida and Madison Counties are revived. Accordingly, Alternative B considers the potential trust conveyance of 35,000 acres of land by the Nation in Oneida and Madison Counties to the U.S. government. Alternative B includes the presently owned 17,370 acres described under Alternative A and up to 17,630 additional acres that the Nation might potentially purchase in the future within the 1794 Treaty of Canandaigua reservation boundaries from willing sellers. The number or location of properties comprising the 17,630 acres has not been identified. Alternative B, if selected, would represent 2.8 percent of the area of both Oneida and Madison Counties and include the same government services, Nation member housing, the Turning Stone Resort & Casino and all enterprises, and the cultural and historic resources as Alternative A.

Alternative C - Group 1 and 2 Lands

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

The lands omitted from trust in Alternative C are those that make up Group 3 which cover 7,467 acres or 0.6 percent of the total area of Madison and Oneida Counties. The current land use is predominately active and inactive agriculture and includes the Black Angus cattle farm along with hunting and fishing areas. These excluded lands contain 13 Nation member residential properties and are associated with a large number of culturally important archaeological sites. Under Alternatives C, D, E, F, H, and I the disposition of Nation lands omitted from trust would, for the purposes of analysis in the EIS, occur

within the taxation/jurisdiction scenarios mentioned earlier. In the PTP scenario, taxes on the omitted lands would be paid. The lands would remain under Nation ownership, but New York State and local governments would have regulatory jurisdiction over them. In the PTNP-F scenario, taxes would not be paid and the omitted lands could be foreclosed or alienated. The lands would fall under New York State and local regulatory jurisdiction. In the PTNP-DC scenario, tax obligation and regulatory jurisdiction would remain in dispute between the Nation and the New York State and local governments.

Alternative D - Group 1 Lands Only

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

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

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 Resort & Casino is located on one tax lot (comprised of two parcels) in the Town of Verona, New York within Oneida County. Taken together with land and facilities beyond the casino itself, the two parcels comprising this alternative consist of approximately 225 acres.

The lands omitted from trust in Alternative E are those that make up the majority of Group 1 and all of Groups 2 and 3 as described above. Collectively these lands cover 17,145 acres and contain all of the Nation's government services and affairs, all of the member program centers, all of the Nation enterprises that are not directly within the casino gaming floor including 12 SavOn gas stations and convenience stores and the public access marinas. The lands omitted from trust here actually include a number of the Turning Stone Resort & Casino facilities such as portions of the golf courses, lodging, and

parking lots. This excluded land contains all Nation member residential properties and is associated with the great majority of the Oneida's culturally and archaeologically important localities in the area. The current land use is predominately active and inactive agriculture and includes the Black Angus cattle farm along with all hunting and fishing areas and the wetland mitigation site. The disposition of Nation lands omitted from trust would occur within the taxation/jurisdiction scenarios previously described.

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 in an attempt to identify a reasonably compact and contiguous group of trust lands. With this alternative, parcels derived from Group 1, 2, and 3 lands were identified and assembled into a generally consolidated alternate group for conveyance into trust. Of the total 289 parcels comprising Alternative F, 228 or 79 percent are located directly adjacent to another Nation parcel and many others are separated by only a roadway or a few non-Nation owned properties.

Properties within Alternative F include the location of the principal Oneida villages from 1635 to 1850 as they developed along Oneida Creek, including major villages documented at the Sterling site and at Kanonwalohale (Oneida Castle) which is the home of the Oneida stone. These are among the many significant Oneida archaeological sites that were considered to be an important cultural aspect of formulating Alternative F. Functionally, Alternative F includes the majority of Nation member housing, most of the Nation's enterprises, all the Nation's government facilities, and all of the properties containing member services. The parcels within Alternative F are for the most part located within a reasonably short driving time of around 15 minutes from each other.

Overall, Alternative F includes all Nation government services, 80 Nation member residences, the Turning Stone Resort & Casino, 13 SavOn gas stations and convenience stores, two marinas, all other Nation enterprises, 7,978 acres of agricultural land and related operations, 3,294 acres of land used for hunting and fishing, 2,537 acres of wetlands, and the great majority of historic, archaeological, and cultural resource sites. Note that these acreage figures represent parcels that may be included in multiple land use categories. 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 total 5,384 acres, which is predominately active and inactive agriculture and includes the Black Angus cattle farm along with some hunting and fishing areas. This land contains 18 Nation member residential properties and is associated with culturally important localities including 46 identified archaeological

sites. The disposition of Nation lands omitted from trust would occur within the taxation/jurisdiction scenarios previously described.

Alternative G - No Action

Under the No Action Alternative, the U.S. would not acquire any lands from the Nation to be held in trust, including the lands associated with the Turning Stone Resort & Casino. Under the CC-AEC scenario, it is assumed that a legal challenge to the Turning Stone Casino would result in the closure of the Turning Stone Resort & Casino as well as the rest of the Nation's enterprises with a loss of over 5,000 jobs. The likely disposition of the Nation's 17,370 acres of land under this scenario of the No Action Alternative would be as follows:

- Turning Stone Resort & Casino – The Turning Stone Resort & Casino would cease operations. The associated Turning Stone Resort & Casino lodging and other related supporting resort facilities would also close and the \$300 million-plus debt service would create a debilitating financial burden on the Nation.
- Other Nation enterprises – The other Nation enterprises would not be viable business operations and with the added property, sales, and excise taxes would be closed.
- Nation government services and affairs – The respective localities for all of these services would not be under the Nation's sovereign control and the Nation would not be able to fund them. As a result, many of the Nation's functions and services would be discontinued or severely limited. The Nation's health, family services, recreation, and cultural enrichment programs would rely heavily on Federal funding to sustain themselves.
- Nation member housing – The Nation's housing program would rely primarily on Federal funding to sustain it. Lands upon which the current 98 Nation member residences are located would not be under the Nation's sovereign control.
- Cultural and historic resources – The Nation's current cultural, historic, and archaeological resources would not be under the Nation's sovereign control and its corresponding protection. The Nation has been active in preserving, protecting, and revitalizing tribal culture through cultural education, site protection, and creation of a comprehensive repository for materials that have historic importance to the Nation.
- Hunting and fishing, wetlands mitigation, and agriculture – Hunting and fishing lands, the wetlands mitigation bank, and the Nation's agricultural operations would not be under the Nation's sovereign control.

Overall, under this CC-AEC scenario the BIA has assumed that the Nation's means of economic self-reliance and financial support of its services and programs would be eliminated. The Nation's 17,370 acres of land would not be regulated under its policies or its ordinances. Instead, all these lands would be under the jurisdiction and regulation of local and New York State authorities. Since the Nation would generate little revenue, it could not continue to meet its tax obligations and eventually all of its reacquired lands

might be foreclosed or alienated. As this occurs, the Nation's government services and programs would discontinue in their current form and would rely largely upon Federal funding, if they continued at all. The Nation's land base would be eliminated except for the 32 acres.

In the **PTP** scenario, the taxes related to the 17,370 acres would be paid and those lands would be under the regulatory jurisdiction of New York State and local governments. The Turning Stone Resort & Casino might continue to operate, and all other Nation enterprises including the SavOn gas stations and convenience stores and marinas may continue functioning. However, real estate taxes would be paid on all Nation lands. The New York State and local governments would have regulatory jurisdiction over all Nation lands. The Nation would not have sovereign control over any of its reacquired lands, although it may continue to support its services and programs with revenues generated from its enterprises.

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

In the **PTNP-DC** scenario, taxes would not be paid although the Turning Stone Resort & Casino along with the all of the other Nation enterprises would continue operations. The Nation's enterprises, government services and member programs, all cultural and historic sites, and all member housing would be maintained on lands formerly regulated by the Nation and now by law under the jurisdiction of New York State and local governments. However, the tax obligation and the jurisdiction of the Nation's 17,370 acres would remain in dispute between the Nation and New York State and local governments.

Alternative H - County Trust Land Alternative

Alternative H was proposed by Madison and Oneida County both in writing (see Nixon Peabody letter dated November 1, 2006 in Appendix J), and at the December 14, 2006 and February 6, 2007 public hearings for the Draft EIS. The acreage proposed includes approximately 1,026 acres in two clusters, one in Madison County (590 acres) and one in Oneida County (436 acres). In both clusters, the properties included are for the most part adjacent to one another. The 436-acre cluster in Oneida County is centered around the Turning Stone Resort & Casino. The 590-acre grouping in Madison County was proposed with a focus surrounding the Nation's 32-acres which are not part of the Trust Land Application.

In addition to taking the 1,026 acres of land into trust, Madison and Oneida Counties also stipulated a set of conditions for implementing Alternative H. These stipulations include an approved (New York State and Federal) resolution authorizing gaming at the Turning Stone Casino and provisions for impact payments, service agreements, codes, and other principles of settlement from prior land claim negotiations involving the Nation. Details of these conditions and assessments of their respective applicability to Alternative H are presented in Section 2.4 Description of Alternatives.

Alternative H contains 55 member residences, some government services, the Turning Stone Resort & Casino, one golf course (Shenendoah), one SavOn gas station and convenience store, 390 acres of agricultural lands, 138 acres for hunting and fishing, and 177 acres of wetlands. Note that these acreage figures represent parcels that may be included in multiple land use categories. Alternative H would accommodate in trust some Nation lands that contain social, cultural, and religious practices but a very limited number of the historical and archaeological resources (18 or 12 percent of the identified archaeological sites). The Alternative H trust lands occupy 436 acres or 0.05 percent of the land area of Oneida County and 590 acres or 0.07 percent of the land area in Madison County. Collectively, the 1,026 acres represent 0.08 percent of the total land area of both counties.

The lands omitted from trust in Alternative H comprise 16,344 acres. This land contains 43 Nation member residential properties and some government services including telecommunication and information services, media relations, administrative offices, and security offices. Cultural resource sites omitted from trust include the Cultural Resources Department, Living History Department, festival sites, living history reenactment sites, land for black ash used in traditional basket making, and the traditional Three Sisters cropland. In total, this land also includes the great majority of and all of the important identified and sensitive archaeological properties. In addition, this land includes well over 90 percent of the Nation's reacquired agricultural and hunting and fishing lands. Nation enterprises omitted from trust include 12 SavOn gas stations and convenience stores, the quarry, Inn at Turning Stone, four golf courses, Villages at Turning Stone RV Park and Peaceful Pines Campground, Four Directions Media, Standing Stone Gaming, Retail Outlet, wholesale distribution and warehouse facilities, all three public access marinas, CNY Fiberglass and Boat Repair, and crop rental on agricultural land holdings. The disposition of Nation lands omitted from trust under Alternative H would occur within the taxation/jurisdiction scenarios previously described.

Alternative I - Preferred Alternative

The Associate Deputy Secretary of the U.S. Department of the Interior and the BIA, as the lead agency for the EIS, have selected Alternative I as the Preferred Alternative for a trust action in response to the Nation's April 4, 2005 Trust Land Application. In many respects, Alternative I as the Preferred Alternative represents a compromise action.

Alternative I reflects a focus on the immediate and shorter-term needs of the Nation to reestablish a sovereign homeland and on the New York State and local government requests to consider a more compact and contiguous trust land grouping than the Proposed Action (Alternative A) centered around the Turning Stone Resort & Casino, in Oneida County, and the Nation's 32-acre reservation area in Madison County. Alternative I includes all of the Group 1 lands and various parcels from Groups 2 and 3.

The acreage proposed for trust conveyance in Alternative I includes approximately 13,086 acres in two relatively condensed clusters, one centered around the Turning Stone Resort & Casino (Casino-Resort Grouping) and the other with a focus surrounding the Nation's 32-acre reservation area (Government-Cultural Grouping). In both groupings, the great majority of properties included are directly adjacent to another Nation-owned property. Of the total 234 parcels (71 percent of the total in Alternative A) comprising Alternative I, 211 or 90 percent are located directly adjacent to another Nation parcel and many others are separated by only a roadway or a few non-Nation owned properties. Alternative I encompasses 13,086 acres on an area of about nine by 14 miles; in comparison, Alternative A encompasses 17,370 acres that is located over a 20 by 20 mile area. Thus, while Alternative I occupies 75 percent of the Alternative A land acreage, it is arrayed across a region that is only 31 percent of that of the Proposed Action. The parcels within Alternative I are, for the most part, located within a reasonably short driving time of around 15 minutes from each other.

The combined Casino-Resort and Government-Cultural Groupings that make up Alternative I coincide with the area southeast of Oneida Lake which has become the historic focal area of the Oneida Nation's development. Functionally, Alternative I includes the majority of Nation member housing, many but not all of the Nation enterprises, and most of the Nation's government facilities.

Alternative I contains 80 Nation member residences (82 percent of the total), the majority of government services, the Turning Stone Resort & Casino, all of the golf courses, four of the 13 SavOn gas stations and convenience stores, the Black Angus cattle farm, 9,789 acres of agricultural land, 3,076 acres used for hunting and fishing, and 2,274 acres of wetlands. These acreages comprise 76, 73, and 73 percent, respectively, of the total acreages in the three categories. Note that these acreage figures represent parcels that may be included in multiple land use categories. Alternative I would accommodate in trust a little more than one-half of Nation lands that contain social, cultural, and religious facilities as well as historical and archaeological resources (82 or 52 percent of the identified archaeological sites). Alternative I would also include many of the significant cultural assets and facilities owned by the Nation including the Shako: wi Cultural Center, Ray Elm Children & Elders Center, Village of the White Pines, and the Three Sisters traditional croplands. Alternative I covers approximately 8,833 acres or 1.1 percent of the area of Oneida County and approximately 4,253 acres or 1.0 percent of the area of

Madison County. Collectively, the 13,086 acres represent about 1.05 percent of the total area of both counties.

The lands omitted from trust in Alternative I total 4,284 acres. This land contains 18 Nation member residential properties and some government services including media relations, member services department, and security offices. Cultural resource sites omitted from trust include the Cultural Resources Department, Living History Department, festival sites, living history reenactment sites, and many of the important archaeological sites. In total this land includes 75 identified archaeological sites and 64 sensitive archaeological properties. Nation enterprises omitted from trust include nine SavOn gas stations and convenience stores, the sand and gravel quarry, wholesale distribution and warehouse facilities, public access marinas CNY Fiberglass and Boat Repair, and crop rental on some agricultural land holdings. By acreage, the current land use is predominately active and inactive agriculture along with some hunting and fishing areas. Omission of these lands from trust should not be interpreted as an indication that the Nation is precluded from filing future applications to take the subject land into trust. The disposition of Nation lands omitted from trust under Alternative I could occur within the taxation/jurisdiction scenarios previously described.

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 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 detailed analysis as NEPA alternatives or to warrant delay in considering the Nation's Trust Land Application.

Potential Environmental Effects

The following summary of potential environmental and socioeconomic effects is presented with respect to Alternatives A through I. In this section the significant, notable and/or most salient consequences 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, there would be no direct effects to the physical environment since no ground disturbance is being proposed. The resource categories that

would not be significantly affected by any alternative include topography, soils, geology, surface water, groundwater, wetlands, air quality, wildlife, vegetation, ecosystems/biological communities, agriculture, some broader social conditions, mining, recreation, transportation, wilderness, noise, light, visual, public health and safety, and growth inducement. On the other hand, the various proposed trust transfers within the respective alternatives may have more significant effects on New York State, the local communities or the Nation. These consequences are most evident in the resource or value categories that include land use planning and zoning, historic and archaeological resources, cultural values, local community and Nation government services, employment and income, housing and demographics, taxation, hunting and fishing resources, regulatory jurisdiction, and environmental justice. With regard to regulatory issues, although Nation laws and ordinances could change in the future, the BIA may base its review and analysis of the consequences of the Proposed Action and other alternatives in light of the existing Nation laws and ordinances.

The Final EIS discusses the extent to which the purpose and need would be met under each alternative in order to inform the BIA and respective decision makers in the U.S. Department of the Interior of the potential consequences of a decision on the applicant (the Nation), the local communities and the broader natural and physical environment. For each alternative discussed below, a respective conclusion is made on its potential consequences, including the degree to which an alternative meets the purpose and need expressed by the Nation.

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

Under Alternative A, 17,370 acres of reacquired land owned by the Nation would be conveyed into trust. Alternative A contains all 98 Nation member residences, all government services, the Turning Stone Resort & Casino, all business enterprises, 12,824 acres of agricultural lands, 4,227 acres of land for hunting and fishing, and 3,106 acres of wetlands (note that these acreage figures represent parcels that may be included in multiple land use categories). Alternative A contains all lands of social, cultural, and religious significance as well as all historical and archaeological resources (157 identified archaeological sites). The protection afforded to cultural resources by Section 106 of the NHPA as well as consultation with the SHPO would continue to apply to trust lands. The role of the SHPO under Section 106 in evaluating the significance of cultural resources remains. However, with trust status, cultural and historic properties would have the added Federal protection of the Archaeological Resources Protection Act (ARPA) (archaeological sites on public and Native lands) and the Native American Graves Protection and Repatriation Act, (NAGPRA) and be under Nation stewardship. Alternative A also includes all of the cultural facilities owned by the Nation such as the Shako:wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, traditional croplands plus cultural service departments. All current

government programs and services would be maintained on the trust lands including health, education, housing, recreation and cultural activities, day care, and public safety.

The current condition is that Nation-owned lands are interspersed within their respective local communities, to a greater or lesser degree, with non-Nation lands. Alternative A results in a future condition where all 17,370 acres of Nation lands are held in trust status by the Federal government. The trust lands would be similarly interspersed with non-Nation lands as in the current condition. New York State and local governments have commented that this would result in a “patchwork” or “checkerboard” of Nation and non-Nation owned lands that would have an adverse effect on their ability to cohesively plan and uniformly enforce zoning, land use or environmental regulations. Further, New York State and Madison and Oneida Counties have commented that the Proposed Action creates patches of tribal trust lands within the fabric of multiple communities impacting their character and ability to govern. In most areas there is general uniformity in the use of the majority of Nation and non-Nation lands, and trust lands would be regulated under the Oneida Indian Nation Land Use Ordinance and the Oneida Indian Nation Zoning Ordinance. These ordinances require development to be compatible with adjoining uses and under Nation policies to protect environmental resources and public health and safety (Oneida Indian Nation Environmental Protection Ordinance and Oneida Indian Nation Amended Health and Safety Ordinance).

However, New York State and local governments would not have regulatory control over the lands once held in trust by the Federal government for the Nation. Future changes (if any) in the existing land use planning or zoning by either the Nation or local governments, if uncoordinated, could result in inconsistent regulatory application. In their comments on the Proposed Action, New York State and Madison and Oneida Counties have expressed, as an example, that since the Turning Stone Resort & Casino was constructed the previous agricultural character of the area has changed. More broadly, New York State and Madison and Oneida Counties have expressed that the various municipalities affected by the trust action have “settled expectations” about their community’s governance, planning, and services and that trust lands intermixed with non-trust lands would disrupt these settled expectations. New York State and Madison and Oneida Counties have also expressed concerns for the inability for local governments to review proposed future Nation developments and determine compatibility with state environmental laws, public health and safety, local zoning, and building code requirements including master plans. Presumably, these comments and concerns apply to varying degrees to other alternatives where a sizable portion of Nation lands are conveyed into trust. The BIA is aware that in some cases state standards differ from their Federal and tribal counterparts. The United States holds approximately 55 million acres in trust across the country and the BIA is familiar with issues that arise from differences between state/local and tribal jurisdiction. It is not necessary or appropriate to engage in a side-by-side comparison or critique of the protectiveness of Federal/Nation laws versus New York State/local laws. The Nation

proposes no change in land use as part of its Trust Land Application. Thus, there would be no direct environmental impacts that would result from a change in jurisdiction following the acquisition of land in trust – regardless of differences between Federal/Nation and New York State/local and requirements. Further, the Nation has demonstrated its willingness to participate in collaborative actions with New York State and local municipalities involving, for example, the protection of species, the CWD program, permitting of the reclaimed water pipeline, a cooperative agreement with the SHPO, the creation of the 75-acre wetlands bank, following the intent of New York State and local air and noise standards, and the preservation of the Rome Sands Plain.

In 2005, the Turning Stone Resort & Casino employed 3,779 people and the SavOn gas stations and convenience stores employed 279 people. In the next five years, a modest increase would be expected in Turning Stone Resort & Casino jobs of about 50 per year due to an increase in visitors (increases 3.1 percent annually) to a total of 4,033. SavOn gas stations and convenience stores and other Nation enterprise jobs (65) would remain constant. Current Nation government employment would increase from 488 to 505. Total Nation employment would be expected to grow from 4,611 to 4,882. There would also be a modest net increase in jobs at non-Nation local businesses from 726 (\$27.1 million in earnings) to 768 (\$28.6 million), due to multiplier spending by the Nation and its employees plus added jobs and earnings from off-site visitor spending. Under Alternative A, there would be no significant change of employee in-migration in the next five years due to limited employment growth and the high proportion of local hiring. The estimated increase of school aged children over five years would be insignificant because of the small total population change.

Under Alternative A, 17,370 acres of trust land would be exempt from property taxes which could have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$2.76 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. It should be noted that it is disputed whether or not an Indian casino under IGRA can be legally taxed. However, the position of Madison and Oneida Counties is that the property tax should be on the order of \$14.96 million, an amount that includes the estimated county levy (\$12.2 million) on the Turning Stone Resort & Casino tax lot. The Nation has paid taxes to the Cities of Oneida and to Sherrill along with grants and payments to local governments for a total of \$38.5 million since 1995. Nation employees paid an estimated \$5.55 million in local property taxes in 2005 and the Nation withheld and remitted \$3.38 million in New York State income taxes from its employees in 2005. In addition, the multiplier effect of the Nation and employee spending stimulated \$7.98 million of New York State personal income, business, and sales taxes and another \$1.20 million in local sales taxes. All these Nation related payments would increase with the anticipated job growth of the Nation enterprises. In 2011 estimates are \$5.96 million of employee property taxes, \$3.57 million in income taxes, \$8.36 million in multiplier New York State taxes, and \$1.27 million in local sales taxes. It

is anticipated that the Nation will continue to maintain service agreements with local governments. Finally, the Nation paid \$2.2 million and \$2.8 million, respectively, to the New York State Police and the New York State Racing and Wagering Board in 2004 and 2005 for their services to the Turning Stone Resort & Casino that would be expected to continue in the future.

In their comments on the Proposed Action, New York State and Madison and Oneida Counties have expressed that the placement of Nation lands into trust would have a significant adverse effect on the ability of state and local governments and special assessment districts to provide services, paid by tax dollars, to the communities and affected citizens while benefiting from public infrastructure, social services and amenities, libraries, schools, and solid waste management facilities. In 2005 the revenues from Nation payments and associated employee and multiplier taxes were about \$24.29 million while its costs in government services were \$7.54 million, resulting in a beneficial net effect on the revenues of New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative A all indicate net benefit revenues in the millions of dollars to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

Under Alternative A, there would be no direct physical adverse effects on community facilities and services related to police protection, fire protection, schools or medical care/emergency services. No significant increase in the demand for police or fire protection or emergency medical assistance would be expected due to the relatively minimal increases in Turning Stone Resort & Casino visitors, new employees, and Nation population. Current and ongoing service agreements and cooperative service efforts, such as the Mutual Aid Plan, would be expected to continue. The Town of Vernon Fire Department has contested the adequacy of its service agreement with the Nation and this issue remains unresolved. In their comments on the Proposed Action, New York State and Madison and Oneida Counties have expressed that Nation lands receive municipal sewer, water and emergency services and that placing of special district lands into trust would result in fewer users financially supporting the districts. Regarding criminal justice, local and New York State Police have criminal jurisdiction and enforcement power on all Nation lands regardless of whether they are in trust or not.

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

Overall, Alternative A would secure a land base in trust status for implementing the Nation's expressed purpose and need. Alternative A would result in Nation sovereignty over all of its 17,370 acres of reacquired reservation lands. It would allow for the continuation of a diversified and productive economic base, government services and programs as well as all Nation member housing. Alternative A would provide the added Federal protection of all Nation owned lands of social, cultural, and religious significance as well as all historical and identified archaeological resources. It would assure the preservation of a Nation homeland for its members, restrict future alienation, and avail the Nation of Federal laws that apply to trust lands.

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

Under Alternative B, 17,370 acres of existing Nation lands would enter trust along with an additional unidentified 17,630 acres at some future point. Alternatives A and B contain the most proposed trust land area in all use categories, the only alternatives that would accommodate in trust all Nation lands containing social, cultural, and religious sites as well as the important historical and archaeological resources. They would also include every significant cultural asset and facility owned by the Nation. It is likely that under Alternative B there would be an increase in a number of the above attributes 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.

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

Under Alternative B, 35,000 acres would be exempt from property taxes which could be an adverse effect on the local government revenues. The annual property tax on these lands is estimated by extrapolation at \$5.60 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The position of Madison and Oneida Counties is that the property tax should be on the order of \$17.80 million, an amount that includes the estimated county levy (\$12.2 million) on the Turning Stone Resort & Casino tax lot. For 2005, Nation related payments including the local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes were as mentioned above, totaled \$24.29 million. In Alternative B, all these figures would increase similarly to Alternative A with the anticipated job

growth of the Nation enterprises and as more land is acquired to reach the total of 35,000 acres. It is anticipated that the Nation will continue to maintain service agreements with local governments. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future. In Alternative B, Nation payments in 2011 would be expected to exceed the costs of government services or lost property taxes, resulting in net revenue benefits in the millions of dollars to New York State and local governments. However, this is only approximated as the actual taxes cannot be estimated for the future additional unknown properties in Alternative B.

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. Alternative B would result in Nation sovereign control over all of its 17,370 acres of reacquired reservation lands and over an additional 17,630 acres potentially acquired in the future. It would allow for the continuation of a diversified and productive economic base, government services and programs as well as Nation member housing. Alternative B would provide the added Federal protection to all Nation owned lands of social, cultural, and religious significance as well as to all historical and identified archaeological resources plus some additional archaeological resources that may be within the future 17,630 acres. The role of the SHPO under Section 106 in evaluating the significance of cultural resources within trust lands also would remain. Alternative B would assure the preservation of a Nation homeland for its members, restrict future alienation, and avail the Nation of Federal laws that apply to trust lands.

Effects of Alternative C: Group 1 and 2 Lands

Under Alternative C, 9,903 acres would be conveyed into trust. Alternative C contains 85 Nation member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 5,675 acres of agricultural lands, 2,235 acres of land for hunting and fishing, and 2,263 acres of wetlands (note that these acreage figures represent parcels that may be included in multiple land use categories). Alternative C would accommodate in trust a relatively large part of Nation lands that support social, cultural, and religious practices as well as contain historical and archaeological resources (100 sites accounting for 64 percent of the identified archaeological sites). Alternative C also includes the majority of significant cultural assets and facilities owned by the Nation. All existing activities on the 9,903 acres of Nation trust lands would generally continue. These Nation trust lands would be interspersed with non-Nation lands, raising the issues

mentioned above in Alternative A concerning the potential “checkerboard” effects on planning and regulatory oversight expressed by New York State and local governments.

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

Under either the **PTP** or **PTNP-F** scenarios, all lands omitted from trust would be regulated under the jurisdiction of New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the **PTNP-DC** scenario, regulatory jurisdiction would be in dispute between the Nation and the New York State and local governments.

Total Nation employment in the next five years would be expected to grow from 4,611 to 4,874, just slightly less than in Alternatives A and B. There would be an increase of 42 jobs at non-Nation local businesses. There would be no significant change of employee immigration in the next five years; the estimated increase of school aged children would be insignificant because of the small total population change. Under the **PTP** or **PTNP-DC** scenarios, there would be the same modest increases in employment. Under the **PTNP-F** scenario, Group 3 lands might be foreclosed or alienated with the loss of agricultural jobs and 13 current nation residences. With 7,467 acres of property entering the real estate market there would likely be a reduction in property values.

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

Under Alternative C, 9,903 acres would be exempt from property taxes which could be an adverse effect on the local government revenues. The annual property tax on these lands is estimated at \$2.47 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The position of Madison and Oneida Counties is that the property tax should be on the order of \$14.69 million, an amount that includes the estimated county levy of \$12.2 million on the Turning Stone Resort & Casino tax lot.

Nation related payments in the form of local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes, which totaled \$24.29 million in 2005, would all increase with the anticipated job growth of the Nation enterprises under Alternative C. In 2011, these estimates under Alternative C are \$5.95 million of employee property taxes, \$3.57 million in income taxes, \$8.35 million in multiplier New York State taxes, and \$1.27 million in local sales taxes. It is anticipated that the Nation will continue to maintain service agreements with local governments. Payments to the New York State Police and the New York State Racing and Wagering Board in 2004 and 2005 for their services to the Turning Stone Resort & Casino would continue in the future. In 2005 the revenues from Nation payments exceeded its costs in government services, resulting in a beneficial net effect, as mentioned above, on the New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative C all indicate net benefit revenues in the millions of dollars to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

Under the **PTP** scenario, the property taxes on Group 3 lands (estimated at \$271,000) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the Group 3 lands eventually may be alienated or foreclosed and the new owners would be responsible for paying the property taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or to foreclose for non-payment of property taxes.

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

Conveying 9,903 acres of Nation lands into trust under Alternative C would have a beneficial effect on the Nation allowing for its self-governance and control of lands considered by the Nation as ancestral homeland and within the reservation. Lands omitted from trust would not be provided the increased Federal protection of the ARPA and the NAGPRA. The role of the SHPO under Section 106 in evaluating the significance of cultural resources within trust lands also would remain. The potential alienation or foreclosure of these lands (under the **PTNP-F** scenario) including the loss of 13 Nation

member residential properties as well as the loss of hunting and fishing lands, agriculture, and cultural resources would be an adverse effect predominately borne by Native American populations and the Nation.

Alternative C would secure a land base less than the Proposed Action for implementing the Nation's expressed purpose and need. Alternative C would result in Nation sovereign control over more than one-half (9,903 acres) of reacquired reservation lands. It would allow for the continuation of a diversified and productive economic base, government services and programs as well as 87 percent of Nation member housing. Alternative C would enable the added Federal protection of a large part of Nation owned lands of social, cultural, and religious significance as well as over 70 percent of historical and identified archaeological resources. It would preserve a significant part of the Nation's homeland that would be restricted from future alienation.

Effects of Alternative D: Group 1 Lands Only

Under Alternative D, 3,428 acres would be conveyed into trust. Alternative D contains two Nation member residences, no government services, the Turning Stone Resort & Casino, 1,757 acres of agricultural lands, no hunting and fishing lands, and 843 acres of wetlands. Alternative D would not include any of the Nation lands that support social, cultural, and religious practices and only a few archaeological resources (six sites or only four percent of the identified archaeological sites). Alternative D includes none of the significant cultural assets and facilities owned by the Nation. All existing uses on the 3,428 acres of Nation trust lands would generally continue. However, these Nation trust lands would be interspersed with non-Nation lands, raising the issues mentioned above in Alternative A concerning the potential “checkerboard” effects on planning and regulatory oversight expressed by New York State and local governments.

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

Under either the PTP or PTNP-F scenario, all lands omitted from trust would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use

regulations. Under the **PTNP-DC** scenario, regulatory jurisdiction would be disputed between the Nation and the New York State and local governments.

Under certain Alternative D scenarios, Nation employment could have a net decrease in jobs 4,611 to 4,539. There would be immediate job losses at SavOn gas stations and convenience stores (231), other enterprises (52), and the Nation government (42). In the next five years the growth of the Turning Stone Resort & Casino would create an additional 290 jobs, partly offsetting to a large extent the short term drop in employment at the SavOn gas stations and convenience store, other enterprises, and the government. As a result, it is expected that Alternative D would cause a short-term loss of 325 jobs and over the ensuing five years, a net loss of 72 Nation jobs would be expected. There would also be a short term loss of 44 jobs at non-Nation local businesses that would be largely replaced by growth in the next five years. With job loss, there would correspondingly be some minor employee out-migration in the next five years. An increase of school aged children in the next five years would be insignificant. A similar result would be expected under the **PTP** or **PTNP-DC** scenarios previously described. Under the **PTNP-F** scenario, Group 2 and 3 lands might be alienated or foreclosed and there could be a loss of 325 Nation enterprise and government jobs including those at 12 SavOn gas stations and convenience stores, the marinas, and agricultural operations. There may also be a loss of all 96 Nation member residential properties 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 Alternative D under the **PTP** and **PTNP-DC** scenarios, all government programs would be continued and spending would be based on enterprise revenues. Under the **PTNP-F** scenario, Group 2 and 3 lands might be alienated or foreclosed and all government programs and related spending could be severely curtailed or discontinued as they are located in facilities on the lands omitted from trust. Overall spending may also decrease based on loss or decline of SavOn gas station and convenience store revenues.

Under Alternative D, 3,248 acres would be exempt from property taxes which would have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$1.05 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The position of Madison and Oneida Counties is that the property tax should be on the order of \$13.25 million, an amount that includes the estimated county levy (\$12.2 million) on the Turning Stone Resort & Casino tax lot. The local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would, under Alternative D, remain static or decrease slightly with job decline at the Nation enterprises. In 2011, estimates of Nation related payments under Alternative D are \$5.55 million of employee property taxes, \$3.30 million in income taxes, \$7.82 million in multiplier New York State taxes, and \$1.18 million in local sales taxes. It is anticipated that the Nation will continue to

maintain most of its service agreements with local governments. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future. In 2005 the revenues from Nation payments (\$24.29 million) exceeded its costs in government services resulting in a beneficial net effect on New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative D all indicate net benefit revenues in the millions of dollars to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

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

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

Conveying 3,248 acres of Nation lands into trust would secure a relatively small portion of its total lands. The 13,942 acres of land omitted from trust would not have the additional Federal protection of the ARPA and the NAGPRA. The potential alienation of the 13,942 acres (under the **PTNP-F** scenario) including the potential loss of 96 Nation member residential properties, government services and programs, hunting and fishing lands, agricultural lands, and the majority of cultural resources would be an adverse effect predominately borne by Native American populations and the Nation. Lands excluded from trust also include several revenue-generating properties, which may result in reduced financial returns from these enterprises that have supported the Nation's governmental programs and services. As a result, the Nation may not be able to fully sustain its past commitments or grow its resource allocation for governmental services and programs that benefit Nation members and other Native Americans who may be beneficiary recipients of select programs.

Alternative D would secure an insufficient land base for fulfilling the Nation's expressed purpose and need. Alternative D would result in Nation sovereign control over only one-fifth (3,428 acres) of reacquired reservation lands. It would not allow for a diversified economic base since it only includes the Nation enterprises directly associated with the Turning Stone Resort & Casino. Alternative D would have none of the locations for Nation government services and programs and only two percent of the current Nation member housing. Alternative D would not provide the added Federal protection to lands of social, cultural, and religious significance to the Nation, including archaeological sites and other cultural resources.

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

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

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

In Alternative E, there would not be interspersing or checkerboarding of Nation trust lands and non-Nation lands. The 225 acres that enter trust would be under the Nation's governance. Under either the PTP or PTNP-F scenario, all lands omitted from trust would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the PTNP-DC scenario, regulatory jurisdiction would be disputed between the Nation and the New York State and local governments.

Under Alternative E, 3,406 jobs at the Turning Stone Resort & Casino would continue but there would be an overall decrease of 373 jobs at this facility and 231 jobs at the SavOn gas stations and convenience stores. There would also be a reduction of 59 Nation

government jobs and a loss of 65 other enterprise jobs. The total Nation employment would fall from 4,611 to 3,883, for an immediate loss of 728 jobs. There would also be 108 jobs lost at non-Nation local businesses. Overall 836 jobs would be lost under Alternative E. This would result in an estimated out-migration of 207 people. Under the PTNP-F scenario, 17,145 acres of land might be alienated or foreclosed and there would be a loss of all associated Nation enterprise jobs including those at 12 SavOn gas stations and convenience stores, marinas, and agricultural operations. In addition, all 98 current Nation member residential properties may be lost. With 17,145 acres of property entering the real estate market there would likely be a reduction in property values in the region.

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

Under Alternative E, only the 225 acre Turning Stone Resort & Casino property would be exempt from property taxes. The annual property tax on this land involves a contested assessment of the Turning Stone Resort & Casino. It should be noted that it is disputed whether or not gaming and gaming related improvements at the Turning Stone Resort & Casino can be legally taxed under IGRA. However, the position of Madison and Oneida Counties is that the property tax should be on the order of \$12.2 million, an amount that includes the estimated county levy on the Turning Stone Resort & Casino tax lot. Nation related payments including local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would all decrease under Alternative E with the anticipated loss in jobs. In 2011, estimates under Alternative E are \$4.74 million of employee property taxes; \$2.87 million in income taxes; \$6.75 million in multiplier New York State taxes; and \$1.02 million in local sales taxes. It is anticipated that the Nation will continue to maintain some of the service agreements with local governments. The payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future. In 2005 the revenues from Nation payments (\$24.29 million) exceeded its costs in government services, resulting in a beneficial net effect on the New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative E all indicate net benefit revenues in the millions of dollars to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

Under the **PTP** scenario, the property taxes on 17,145 acres (\$2.7 million) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the 17,145 acres might be alienated or foreclosed and the new owners would be responsible for paying the property taxes. The loss of 836 jobs would result in a reduction of income, property, and multiplier effect related taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or foreclose for non-payment of taxes.

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

Conveying 225 acres of lands into trust would allow the Nation self-governance of only a minor fraction of its total reacquired land base and the reservation. The 17,145 acres of land omitted from trust would not have the added Federal protection of the ARPA and the NAGPRA. The potential alienation of the 17,145 acres (under the **PTNP-F** scenario) including the potential loss of 98 Nation member residential properties, government services and programs, hunting and fishing lands, agricultural lands, and all cultural resources would be an adverse effect predominately borne by Native American populations and the Nation. Lands excluded from trust also include revenue-generating properties which may result in reduced financial returns from these enterprises that have supported the Nation's governmental programs and services. As a result, the Nation may not be able to fully sustain its past commitments or grow its resource allocation for governmental services and programs which benefit Nation members and other Native Americans who may be beneficiary recipients of select programs.

Alternative E would secure an insufficient land base for fulfilling the Nation's expressed purpose and need. Alternative E would result in Nation sovereign control over only a minor part (225 acres) of reacquired reservation lands. It would not allow for a diversified economic base since it only includes a portion of the Turning Stone Resort & Casino. Alternative E would have none of the locations for Nation government services and programs and none of the current Nation member housing. Alternative E would not provide the added Federal protection to lands of social, cultural, and religious significance to the Nation, including archaeological sites and other cultural resources.

Effects of Alternative F: Alternate Trust Land Grouping

Under Alternative F, 11,986 acres would be conveyed into trust. Alternative F contains 80 Nation member residences, all government services, the Turning Stone Resort & Casino and all business enterprises, 7,978 acres of agriculture, 3,294 acres for hunting and fishing, and 2,537 acres of wetlands (note that these acreage figures represent parcels that may be included in multiple land use categories). Alternative F would accommodate in trust a great majority of Nation lands that support social, cultural, and religious practices as well as historical and archaeological resources (111 sites accounting for 71 percent of the identified archaeological sites). Cultural and historic properties would have the added Federal protection under the ARPA and the NAGPRA, and would be under Nation stewardship. Alternative F includes most of the significant cultural assets and facilities owned by the Nation including the Shako:wi Cultural Center, Ray Elm Children & Elders Center, Village of White Pines, Festival Sites, plus cultural service departments. All existing uses on the 11,986 acres of Nation trust lands would generally continue. These Nation trust lands would be interspersed with non-Nation lands, although the issues mentioned above in Alternative A concerning the potential “checkerboard” effects on planning and regulatory oversight expressed by New York State and local governments would be minimized to a certain extent by the relative increased compactness and contiguity of the parcels that would enter trust.

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

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

In Alternative F, the total Nation employment in the next five years is expected to grow from 4,611 to 4,872, slightly less than Alternatives A and B. There would be an increase of 42 jobs at non-Nation local businesses. There would be no significant change of employee in-migration in the next five years; the estimated increase of school aged children in the next five years would be insignificant because of the small total population change. Under the PTP or PTNP-DC scenarios, there would be the same modest increases in

employment. Under the **PTNP-F** scenario, 5,384 acres of land might be alienated or foreclosed and there would be a potential loss of agricultural related jobs and 18 current Nation residential properties. With 5,384 acres of property entering the real estate market there would likely be a reduction in property values.

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

Under Alternative F, 11,986 acres of trust land would be exempt from property taxes which could have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$2.55 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The position of Madison and Oneida Counties is that the property tax should be on the order of \$14.75 million, an amount which includes the estimated county levy (\$12.2 million) on the Turning Stone Resort & Casino tax lot. Nation related payments including the local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would all increase under Alternative F with the anticipated job growth of the Nation enterprises. It is anticipated that the Nation will continue to maintain service agreements with local governments. Finally, the payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future. In 2005 the revenues from Nation payments (\$24.29 million) exceeded its costs in government services, resulting in a beneficial net effect on the New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative F all indicate net benefit revenues in the millions of dollars to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

Under the **PTP** scenario, the property taxes on 5,384 acres (estimated at \$212,000) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the 5,384 acres might be alienated or foreclosed and the new owners would be responsible for paying the property taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or to foreclose for non-payment of property taxes.

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

agreements and cooperative service efforts would continue. Under the PTP scenario, the omitted land tax revenue would support community services directly and all Nation enterprises and activities could utilize those services. Under the PTNP-F scenario, excluded lands may transfer ownership and new owners would provide the tax revenue to support community services. Under the PTNP-DC scenario, taxation and jurisdiction of omitted land would remain unresolved with the Nation service agreements and support continued.

Conveying 11,986 acres of Nation lands into trust would have a beneficial effect on the Nation allowing for its self-governance and control of lands considered ancestral homeland and within the reservation. However, the 5,384 acres of land omitted from trust would not have the added Federal protection of the ARPA and the NAGPRA. The role of the SHPO under Section 106 in evaluating the significance of cultural resources within the trust lands also would remain. The potential alienation of the 5,384 acres (under the PTNP-F scenario) including the potential loss of 18 Nation member residential properties, hunting and fishing lands, agriculture, and some cultural resources would be an impact predominately borne by Native American populations and the Nation.

Alternative F secures a land base less than the Proposed Action for implementing the Nation's expressed purpose and need. Alternative F would result in Nation sovereignty over more than two-thirds (11,986 acres) of reacquired reservation lands. It would allow for the continuation of a diversified and productive economic base, government services and programs as well as 82 percent of the current Nation member housing. Alternative F would enable the added Federal protection of a great majority of Nation owned lands of social, cultural, and religious significance as well as over 70 percent of historical and identified archaeological resources. Alternative F would preserve a significant part of the Nation's homeland and restrict it from future alienation.

Effects of Alternative G: No Action

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

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

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

Under the **CC-AEC** or **PTNP-F** scenarios, there would be a significant loss of all 3,779 jobs at Turning Stone Resort & Casino and all 279 jobs at the SavOn gas stations and convenience stores with the associated loss in earnings. All jobs at other Nation enterprises (65 jobs) and most of its government jobs (433) would be terminated; without the multiplier related income at local businesses associated job growth would not occur and 709 jobs would be lost. There would be a significant total loss of jobs of 5,265 of which 4,556 are residents of Madison and Oneida Counties, causing related unemployment impacts there. Out-migration is estimated to be 1,293 people including 336 school aged children. Also, under the **CC-AEC** or **PTNP-F** scenarios, 17,370 acres of land might be alienated or foreclosed and all 98 current Nation member residential properties may be lost, a significant adverse effect. With 17,370 acres of property entering the real estate market there would likely be a reduction in property values. Under the **PTNP-DC** and **PTP** scenarios, assuming that the Turning Stone casino remains in operation, jobs and earnings would be expected to increase as in Alternative A.

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

Under the **CC-AEC** or **PTNP-F** scenarios, the BIA has assumed that the Turning Stone Resort & Casino and all Nation enterprises would cease operations, taxes could not be paid and eventually all 17,370 acres of Nation lands might be alienated or foreclosed. The loss of jobs and vendor contracts would further reduce tax revenues. The loss of Nation enterprise jobs would result in a reduction of state income tax withholdings and declines in employee property and local sales taxes. The multiplier effect of the Nation and

employee spending would decrease significantly. In 2011, under Alternative G estimates are \$0.07 million of employee property taxes, \$0.08 million in income taxes, \$0.18 million in multiplier New York State taxes, and \$0.03 million in local sales taxes. It is anticipated that the Nation would discontinue its service agreements with local governments. The annual payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would be discontinued. The Nation related payments in 2011 would be only \$0.34 million and would be exceeded by costs of \$0.48 million. None of the Nation's reacquired 17,370 acres would be exempt from property tax rolls but new owners would be responsible for paying property taxes (\$2.76 million). The **PTP** and **PTNP-DC** scenarios would be similar in effect to Alternatives A, B, C, and F.

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

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

Alternative G would not secure any land base with Federal trust status for fulfilling the Nation's expressed purpose and need. Under Alternative G the Nation would not have sovereign control over any of reacquired reservation lands. It would not allow for a diversified economic base. It would not have any of the locations for Nation government services and programs nor any of the current Nation member housing. Alternative G would not allow for the added Federal protection of Nation lands with social, cultural, and religious significance, including archaeological sites and other cultural resources.

Effects of Alternative H: County Trust Land Alternative

Under Alternative H, approximately 1,026 acres would be conveyed into trust. Alternative H contains 55 Nation member residences, some government services, the Turning Stone Resort & Casino, one golf course, one SavOn gas station and convenience store, 390 acres of agricultural land including the Black Angus cattle farm, 138 acres for hunting and fishing, and 177 acres of wetlands (note that these acreage figures represent parcels that may be included in multiple land use categories). Alternative H would accommodate in trust some Nation lands that support social, cultural, and religious practices but a limited number of historical and archaeological resources (18 sites accounting for 12 percent of the identified archaeological sites). Cultural and historic properties would have the added Federal protection under the ARPA and the NAGPRA, and would be under Nation stewardship. Alternative H includes some of the significant cultural assets and facilities owned by the Nation including the Shako:wi Cultural Center, Ray Elm Children & Elders Center, and the Village of White Pines. All existing activities on the 1,026 acres of Nation trust lands would generally continue.

Under Alternative H, 16,344 acres of the Nation's reacquired lands would be omitted from trust. This land contains 43 Nation member residential properties and some government services including telecommunication and information services, media relations, administrative offices, and security offices. Cultural resource sites omitted from trust include the Cultural Resource Department, Living History Department, festival sites, living history reenactment sites, land for black ash used in traditional basket making, and the traditional Three Sisters cropland. In total, this omitted land includes the great majority of the important identified and sensitive archaeological properties. It also includes well over 90 percent of the Nation's reacquired agricultural lands, wetlands, and hunting and fishing lands. Nation enterprises omitted from trust include 12 SavOn gas stations and convenience stores, the sand and gravel quarry, Inn at Turning Stone, four golf courses, Villages at Turning Stone RV Park and Peaceful Pines Campground, Four Directions Media, Standing Stone Gaming, Retail Outlet, wholesale distribution and warehouse facilities, all three public access marinas, CNY Fiberglass and Boat Repair, and crop rental on agricultural land holdings. Under the PTNP-F scenario, all of these omitted lands would be subject to possible alienation or foreclosure. These omitted lands could be retained in the PTP scenario, with the archaeological sites continuing to receive New York State regulation and NHPA 106 protection. This would be similar in the PTNP-DC scenario with the regulatory jurisdiction in dispute between the Nation and the New York State and local governments.

New York State and local governments have expressed that the interspersing and resultant checkerboarding of Nation and non-Nation lands would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. This potential effect could be minimized under Alternative H as the properties form two small compact groupings, each with a defined border around

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

Under Alternative H, the total Nation employment is expected to decrease in the short term from 4,611 to 4,405, with immediate job losses at SavOn gas stations and convenience stores (263), other enterprises (49), and the Nation government (72). In the next five years the growth of the Turning Stone Resort & Casino would create an additional 231 jobs, partly offsetting the short term drop in employment at the SavOn gas stations and convenience store, other enterprises, and the government. As a result, a net loss of 207 Nation jobs would be expected. There would also be a short term loss of 53 jobs at non-Nation local businesses that would be partially replaced by growth in the next five years. With job loss, there would correspondingly be some minor employee out-migration (59 people) in the next five years. A decrease of school aged children in the next five years would be insignificant. A similar result would be expected under the **PTP** or **PTNP-DC** scenarios as in Alternative A. Under the **PTNP-F** scenario, 16,344 acres might be alienated or foreclosed and there could be a loss of 438 Nation enterprise and government jobs including those at 12 SavOn gas stations and convenience stores, the marinas, and agricultural operations. There may also be a significant loss of 43 Nation member residences with a resulting potential out-migration. With 16,344 acres of property entering the real estate market there would likely be a reduction in property values.

In Alternative H, many government services and programs would be maintained on lands that would enter trust. Under the **PTP** and **PTNP-DC** scenarios, all government programs would be continued and spending would be based on enterprise revenues. Under the **PTNP-F** scenario, 16,344 acres of land might be alienated or foreclosed and the associated government programs and related spending could be severely curtailed or discontinued as they are located in facilities on the lands omitted from trust. Overall spending may also decrease based on a loss or decline of revenues at the SavOn gas stations and convenience stores.

Under Alternative H, 1,026 acres would be exempt from property taxes which could have an adverse effect on local government revenues. The annual property tax on these lands is estimated at \$1.3 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The position of Madison and Oneida Counties is that the property tax should be on the order of \$13.5 million, an amount which includes the estimated county levy (\$12.2 million) on the Turning Stone Resort & Casino tax lot. Nation related payments including the local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local

taxes would, under Alternative H, decrease slightly with the decline in jobs at the nation enterprises. In 2011, estimates under Alternative H are \$5.38 million of employee property taxes, \$3.19 million in income taxes, \$7.57 million in multiplier New York State taxes, and \$1.15 million in local sales taxes. It is anticipated that the Nation will continue to maintain most of its service agreements with local governments. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future. In 2005 the revenues from Nation payments (\$24.29 million) exceeded its costs in government services, resulting in a beneficial net effect on the New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative H all indicate net benefit revenues in the millions of dollars to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

Under the **PTP** scenario, the property taxes on the omitted 16,344 acres (\$1.47 million) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the omitted lands eventually may be alienated or foreclosed and the new owners would be responsible for paying the property taxes. The loss of jobs would result in a reduction of income, property, and multiplier effect related taxes. Under the **PTNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or foreclose for non-payment of taxes.

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

Conveying 1,026 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 16,344 acres of land omitted from trust would not have the additional Federal protection of the ARPA and the NAGPRA. The role of the SHPO under Section 106 in evaluating the significance of cultural resources within the trust lands would remain. The potential alienation of the 16,344 acres (under the **PTNP-F** scenario) including the potential loss of 43 Nation member residential properties, some cultural resources and government services and programs, and the great majority of agricultural, hunting and fishing, and archeological lands would be an adverse effect predominately borne by Native American

populations and the Nation. Lands excluded from trust also include revenue-generating properties which may result in reduced financial returns from these enterprises that have supported the Nation's governmental programs and services. As a result, the Nation may not be able to fully sustain its past commitments or grow its resource allocation for governmental services and programs which benefit Nation members and other Native Americans who may be beneficiary recipients of select programs.

Overall, Alternative H would secure an insufficient land base for fulfilling the Nation's expressed purpose and need. Alternative H would result in Nation sovereign control over only six percent (1,026 acres) of reacquired reservation lands. It would not allow for a diversified economic base since it only includes the Nation enterprises directly associated with the Turning Stone Resort & Casino. Alternative H would have only some of the locations for Nation government services and programs and 56 percent of the current Nation member housing. Alternative D would secure some of the Nation owned lands of social, cultural, and religious significance and just 15 percent of historical and identified archaeological resources.

Effects of Alternative I: Preferred Alternative

Under Alternative I, the Preferred Alternative identified by the BIA and the Associate Deputy Secretary of the U.S. Department of the Interior, 13,086 acres of land would be conveyed into trust. Alternative I contains 80 Nation member residences, the majority of government services, the Turning Stone Resort & Casino, all of the golf courses, four SavOn gas stations and convenience stores, the Black Angus cattle farm, 9,789 acres of agricultural land, 3,076 acres used for hunting and fishing, and 2,274 acres of wetlands. Alternative I would accommodate in trust a large part of Nation lands that contain social, cultural, and religious facilities as well as historical and archaeological resources (82 or 52 percent of the identified archaeological sites). Some cultural and historic properties would be provided the added Federal protection under the ARPA and the NAGPRA, and would be under Nation stewardship. Alternative I would also include many of the significant cultural assets and facilities owned by the Nation, including the Shako: wi Cultural Center, Ray Elm Children & Elders Center, Village of the White Pines, and the Three Sisters croplands.

Under Alternative I, 4,284 acres of the Nation's reacquired land would be omitted from trust. This land includes 18 Nation member residential properties and some government services including media relations, member services department, and security offices. Cultural resource sites omitted from trust include the Cultural Resources Department, Living History Department, festival sites, and living history reenactment sites. Also, there are a number of significant archaeological sites that would be excluded from trust and not have the added Federal protection of the ARPA and the NAGPRA. Nation enterprises omitted from trust would include nine SavOn gas stations and convenience stores, the quarry, Retail Outlet, wholesale distribution and warehouse facilities, public access

marinas (Marion Manor, Snug Harbor, and Mariner's Landing), CNY Fiberglass and Boat Repair, and crop rental on some agricultural land holdings. Under the **PTNP-F** scenario, all of these omitted lands may be subject to possible alienation or foreclosure. These omitted lands could be retained under the **PTP** scenario, with the archaeological and historic sites continuing to receive NHPA 106 protection as well as the consultation role of the SHPO. This is similar under the **PTNP-DC** scenario with the regulatory jurisdiction dispute continuing between the Nation and the New York State and local governments.

New York State and local governments have expressed that the interspersing and resultant checkerboarding of Nation and non-Nation lands would have an adverse effect on their ability to cohesively plan and to uniformly enforce their zoning, land use, and environmental regulations. Alternative I seeks to minimize this potential effect to the extent practicable as the properties form two reasonably compact groupings, one within each county. Under either the **PTP** or **PTNP-F** scenarios, all lands omitted from trust would be regulated under the jurisdiction of the New York State and local governments. This includes all applicable environmental standards and permits as well as zoning rules and land use regulations. Under the **PTNP-DC** scenario, regulatory jurisdiction would be disputed between the Nation and the New York State and local governments.

In Alternative I, the total Nation employment in the next five years would be expected to grow modestly from 4,611 to 4,655, with an accompanying small increase from 726 to 740 jobs at non-Nation local businesses. There would be a short term loss of 234 jobs in Alternative I that would be counterbalanced by the growth of 290 jobs. There would be no significant change of employee in-migration (53 people) 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. A similar result would be expected under the **PTP** or **PTNP-DC** scenarios as in Alternative A. Under the **PTNP-F** scenario, 4,284 acres of land might be alienated or foreclosed and there would be a potential loss of 210 Nation enterprise and government jobs including those at nine SavOn gas stations and convenience stores, the marinas, and agricultural operations. There may also be a loss of 18 current Nation residential properties. With 4,284 acres of property entering the real estate market there would likely be a reduction in property values.

In Alternative I, the majority of government services and programs would be maintained on lands that would enter trust. Under the **PTP** and **PTNP-DC** scenarios, all government programs would be continued and spending would be based on enterprise revenues. Under the **PTNP-F** scenario, omitted lands might be alienated or foreclosed and all government programs and related spending associated with operations on those lands could be severely curtailed or discontinued.

Under Alternative I, 13,086 acres of trust land would be exempt from property taxes which could have an adverse effect on local government revenues. The annual property

tax on these lands is estimated at over \$2.19 million (2005) not including the contested assessment of the Turning Stone Resort & Casino. The position of Madison and Oneida Counties is that the property tax should be on the order of \$14.39 million, an amount which includes the estimated county levy (\$12.2 million) on the Turning Stone Resort & Casino tax lot. Nation related payments including the local property taxes paid by Nation employees, their income and local sales taxes, and the multiplier effect on New York State and local taxes would, under Alternative I, would increase slightly with job growth of the Nation's enterprises. In 2011, estimates under Alternative I are \$5.69 million of employee property taxes, \$3.39 million in income taxes, \$8.01 million in multiplier New York State taxes, and \$1.21 million in local sales taxes. It is anticipated that the Nation would continue to maintain service agreements with local governments. Payments to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino would continue in the future. In 2005 the revenues from Nation payments (\$24.29 million) exceeded its costs in government services, resulting in a beneficial net effect on the New York State and local governments of about \$16.76 million. Similarly, comparisons of estimated Nation payments in 2011 with the direct loss of property taxes that would result from trust transfer under Alternative I all indicate net benefit revenues to New York State and local governments (refer to Section 4.7 Socioeconomics and 5.0 Mitigation for details).

Under the **PTP** scenario, the property taxes on 4,284 acres (estimated at \$575,000) would be paid. Under the **PTNP-F** scenario, taxes would not be paid and the 4,284 acres might be alienated or foreclosed and the new owners would be responsible for paying the property taxes. Under the **P TNP-DC** scenario, taxation would remain unresolved as the local governments could continue to levy taxes while unable to collect them or to foreclose for non-payment of property taxes.

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

Conveying 13,086 acres of Nation lands into trust would have a beneficial effect on the Nation allowing for its self-governance and control of lands considered ancestral homeland and within the reservation. However, the 4,284 acres of land omitted from trust would not have the added Federal protection of the ARPA and the NAGPRA. The role of the SHPO under Section 106 in evaluating the significance of cultural resources

within the trust lands would remain. The potential alienation of the 4,284 acres (under the PTNP-F scenario) including the potential loss of 18 Nation member residential properties, some cultural resources and government services and programs, and some agricultural, hunting and fishing lands, and important archeological lands would be an adverse effect predominately borne by Native American populations and the Nation. Lands excluded from trust also include several revenue-generating properties which may result in reduced financial returns from these enterprises that have supported the Nation's governmental programs and services. As a result, the Nation may not be able to fully sustain commitments in the future or grow its resource allocation for governmental services and programs which benefit Nation members and other Native Americans who may be beneficiary recipients of select programs; however, the omission of 4,284 acres from trust at this time should not be interpreted as an indication that the Nation is precluded from filing future applications to take this land into trust. However, the omission of 4,284 acres from trust at this time should not be interpreted as an indication that the Nation is precluded from filing future applications to take the subject lands into trust.

Alternative I secures a land base less than the Proposed Action for implementing the Nation's expressed purpose and need. Alternative I would result in Nation sovereign control over more than 75 percent (13,086 acres) of reacquired reservation lands. It would allow for the continuation of a diversified and productive economic base, include the majority of the locations for Nation government services and programs as well as 82 percent of the current Nation member housing. Alternative I would enable the added Federal protection of a majority of Nation owned lands of social, cultural, and religious significance as well as just over one-half of historical and identified archaeological resources. Alternative I would preserve a significant part of the Nation's homeland and restrict it from future alienation. Moreover, Alternative I serves the Nation's immediate and shorter-term needs. The Nation's purpose and need for trust land is responsive to expectations regarding checkerboarding and jurisdictional concerns; and assures the capability of the Federal government to discharge its responsibility with regard to the subject lands.

Mitigation

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

The Nation's activities, programs, and relationships with the surrounding communities demonstrate a pre-existing pattern and practice of mitigating the types of effects potentially resulting from the trust action. This is particularly notable regarding the key issues of taxation and regulatory jurisdiction. On the fiscal side, the Nation's various payments to local governments and the positive economic benefits from the Nation's enterprises serve to mitigate fiscal effects that have been identified. Overall, the fiscal revenues generated by the Nation's enterprises exceed the amounts that would be received in taxes without those revenues. With respect to potential regulatory effects, the Nation has implemented and administered its own regulatory scheme, which covers a broad spectrum of environmental, public health and safety, and related issues. Moreover, trust lands would continue to be subject to Federal oversight, environmental laws and regulations. The Nation has consulted with New York State and local jurisdictions informally or on a government-to-government basis on matters of mutual concern. The Nation is committed to the continuance of these policies and programs along with cooperative dialogue in the broad sense of mitigating adverse effects potentially resulting from the proposed conveyance of its lands into trust.

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

Taxes

While forgone taxes could result in an adverse effect on local government revenues, the service agreements and the property, sales, and income taxes directly and indirectly generated by the Nation and its employees would continue to have a positive effect on the local economy and included in 2005:

- \$5.55 million in local property taxes paid by Nation employees;
- \$3.38 million in New York State income taxes remitted from its employees;
- \$7.98 million in New York State tax payments for personal income, business, and sales taxes along with \$1.20 million in local sales tax revenues for Madison and Oneida Counties all stimulated by Nation vendors and employees;
- \$2.2 million and \$2.8 million, respectively, to the New York State Police and the New York State Racing and Wagering Board for their services to the Turning Stone Resort & Casino which would be expected to continue in the future; and
- Continued payments to local governments through community service agreements.

The total revenues produced by the Nation agreements and associated employee and multiplier taxes in 2005 was approximately \$24.29 million, while its costs to New York State and the local governments were approximately \$7.54 million, resulting in a beneficial net effect to New York State and local government revenue of \$16.76 million.

In a similar fashion, a series of comparative analyses were performed to provide a future perspective on the effects of foregone property taxes versus Nation payments on New York State and local government net revenues. Details of these analyses, in which projections were made to 2011, are presented in Section 4.7 Socioeconomics. In all of the analyses of potential property tax losses due to trust transfer of Nation lands, there are net benefits projected to New York State and local government revenues because of estimated Nation payments to those and other municipal and school jurisdictions. For example, in one analysis, the projected costs to New York State and local governments for all services required by the Nation in 2011 were contrasted with the estimated Nation payments in 2011. For the alternatives in which a trust transfer is proposed (Alternatives A through F and H and I), there would be positive net revenues of \$14.07 to \$17.78 million realized by New York State and local governments. Another analysis compared Nation payments with 2011 property taxes, but not including the casino gaming floor tax property tax claimed by New York State and Madison and Oneida Counties. Subtracting the property tax values from Nation payments yields net benefits in revenues to New York State and local governments of from \$14.11 to \$17.35 million for the trust transfer alternatives. Including the claimed casino gaming floor tax lot still resulted in benefits to New York State and the local governments from \$3.74 to \$5.15 million for the trust transfer alternatives. Other analyses are discussed in detail in Section 4.7 Socioeconomics.

In a letter of January 7, 2008, provided to the Associate Deputy Secretary of the U. S. Department of the Interior for consideration under 25 C.F.R. 151, the Nation reaffirmed its commitment in the post-trust future to continue to support and cooperate with local governments and jurisdictions and the surrounding community. Excerpts from that letter follow below (see Appendix J for the complete letter):

- “we see a bright future....in which the growth and success of the Nation is reflected in the growth and success of our entire region.”
- “The nation’s commitment to directly assist local governments will continue even if lands acquire trust status....The Nation has put millions of dollars into... projects...in the past and will continue to do so after the current disputes regarding taxes and trust status are worked out.”
- “Those in the community around us can continue to count on us, as they have in the past, to make very significant grants, donations and other payments....they are voluntary and come from the Nation’s long commitment to its non-Indian allies, foremost those who are our neighbors.”

Regulatory Jurisdiction

The potential effects on the New York State and local governments in the enforcement of environmental laws would be mitigated by the environmental protection provided under Federal laws that would continue to regulate trust lands. In addition, the land would also be regulated by Nation laws and ordinances covering building construction, land use, public safety, hunting and fishing, historic preservation, and environmental protection.

Through those policies, the Nation remains committed to standards of environmental protection, conservation, and public health and safety. The Nation has managed its lands such that there have not been significant adverse direct or indirect cumulative effects on environmental resources. When the Nation initially reacquired lands in Madison and Oneida Counties, prior to the U.S. Supreme Court's decision in *City of Sherrill*, the Nation exercised land use control and Federal laws continued to apply. Many of the regulatory standards of New York State and local municipalities were incorporated by the Nation in their development plans. When it is appropriate under the circumstances, the Nation also executes its own ordinances and regulations in cooperation with Federal, New York State, and local agencies. The Nation has further demonstrated this commitment in past collaborative actions with New York State and local municipalities. Also see the Nation's letter of January 7, 2008 to the Associate Deputy Secretary of the Interior concerning the Nation's commitment as to the post-trust future (Appendix J).

In other parts of the U.S. where land has been placed into trust, Indian tribes and local governments have entered into various cooperative agreements on matters ranging from payment of use fees to criminal law to land use. These voluntary agreements can reduce or eliminate potential impacts arising from the configuration of tribal lands. In substance, they are not too dissimilar from the intergovernmental accords frequently concluded between neighboring municipalities, Federal and New York State regulatory agencies, and states that border each other for purposes of resolving jurisdictional issues and ensuring the health and safety of their respective citizens. The combination of Federal and Nation regulatory oversight and the ongoing practice of consultation and coordination between the Nation and Federal, New York State, and local agencies could serve as a mechanism to mitigate effects on the consistency of application of regulatory controls for the protection of the environmental and to ensure public health and safety.

Land Use, Planning, and Zoning

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

The alternatives that were developed for analysis in the Draft and Final EIS present a range of varying degrees of compactness and/or contiguity among the lands over which the Nation would control land use. Under the land-into-trust regulations, the U.S. Secretary of the Interior must consider jurisdictional problems and potential conflicts of land use which may arise. See 25 C.F.R. § 151.10(f). Consideration of this factor is reflected in the selection of Alternative I as the Preferred Alternative as identified in the Final EIS.

Surface Water

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

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

Employment

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

Traffic

Under all the alternatives and scenarios where the Turning Stone Resort & Casino would continue operations, it is expected that area roadways in the vicinity of Nation facilities and enterprises would accommodate projected increases of traffic, although a drop in service and some delay may occur during peak periods at the intersection of NYS Route 365 and I-90 Exit 33. Possible improvements have been identified which include:

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

Historic, Cultural, and Archaeological Resources

The potential effect on the ability of New York State and local governments to regulate and protect these resources would be mitigated by the continued application of the National Historic Preservation Act to lands in trust and their added Federal protection under the ARPA and the NAGPRA. Further, the Nation has enacted its own Oneida Indian Nation Cultural, Historical or Archeological Resources Ordinance and has implemented a program to preserve and protect those sites as well as to archive important artifacts and data recorded from those sites. The Nation has also worked with the State Historic Preservation Office (SHPO) at the New York State Office of Parks, Recreation and Historic Preservation whereby it signed a cooperative agreement on March 18, 2004 to share archeological site file information. A combination of the Federal and Nation regulations, the Nation's proactive program to preserve its archaeological sites, continuation of the SHPO's role under Section 106 for future projects on Oneida trust lands, and a continuation of the cooperation between the Nation and New York State could serve to mitigate potential effects on these resources and their regulatory protection once in trust.

Government Services

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

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

The maintenance of service agreements and their modification, if necessary, to accommodate growth along with a continuation of cooperation between the Nation and

the municipal service providers would further mitigate an increase in demand for community services. As mentioned above, in a letter of January 7, 2008, to the Associate Deputy Secretary of the U. S. Department of the Interior, the Nation reaffirmed its commitment in the post-trust future to continue to support and cooperate with local governments and jurisdictions and the surrounding community.

Lifestyle and Cultural Values

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