

4.2 Land Resources

This section addresses potential effects to land resources including topography, soils, geologic and mineral resources and land use. Potential direct, indirect and cumulative effects for each land resource category are described.

Section 4.1 Introduction establishes the context for defining criteria to determine the potential for a significant effect within any resource category. Specific significance criteria are presented for each major category of land resources – topography, soils, geologic and mineral resources and land use. These significance criteria are based on metrics and standards, applicable to the resource category, that allow for a differentiation of effects based upon context and intensity.

Section 2 Alternatives and Section 4.1 Introduction establish and define the range of possible taxation and jurisdictional scenarios that could apply to lands not conveyed into trust. With respect to the resource categories discussed under land resources, these scenarios have a “scaling” influence on potential effects based upon the area of land to be excluded from conveyance into trust.

4.2.1 Topography

Significance Criteria

Potentially significant adverse effects may occur if the action is likely to directly, indirectly, or cumulatively:

- Result in a change to slopes or elevations such that lines of sight or viewsheds are altered from present conditions
- Result in a change in drainage patterns to the extent that hazards to people and property are created due to potential subsidence, excessive runoff, flooding, erosion, land slides, or mud slides on Nation lands, adjacent non-Nation lands or within the larger geographic context of the towns and counties that comprise the Study Area

4.2.1.1 Direct Effects

The topography of the Study Area is described in detail in Section 3.2.1 Topography. The proposed federal action would not result in physical alteration of any slopes, elevations or drainage patterns occurring on the Nation’s lands conveyed into trust, on adjacent non-Nation lands or on any lands within the Study Area. As such, implementation of the Proposed Action or any of the alternatives (including the No Action Alternative) would have no direct effect on topography on or surrounding the Nation’s lands or the towns, counties or surrounding region.

4.2.1.2 Indirect Effects

Implementation of the Proposed Action or any of the alternatives (including the No Action Alternative) would not result in any activity that would indirectly result in physical alteration to slopes, elevations or drainage patterns on Nation lands, on adjacent non-Nation lands or on any lands within the Study Area. As such, implementation of the Proposed Action or any of the described alternatives (including the No Action Alternative) would not result in a significant adverse indirect effect to topography. Similarly, growth associated with the on-going use of the Turning Stone Resort & Casino would not result in any indirect effects to topography.

The various taxation/jurisdictional scenarios that would apply to lands not conveyed into trust are described in detail in Section 4.1.3. Implementation of the Proposed Action or any of the described alternatives, including the No Action Alternative, would not have an effect on topography.

4.2.1.3 Cumulative Effects

Implementation of the Proposed Action or any of the alternatives (including the No Action Alternative) would not result in any activity that would directly or indirectly alter the topography of the Nation's lands, adjacent non-Nation lands, or any lands within the Study Area. Therefore, no adverse cumulative effects would result.

4.2.2 Soils

Significance Criteria

The following criteria were considered in determining whether the Proposed Action or any of its alternatives (including the No Action Alternative) would result in a significant adverse effect on soil resources:

- A change to the type, distribution, quality, stability or quantity of soil such that:
 - erosion and/or leaching potential increases,
 - acid conditions are created,
 - drainage patterns change,
 - runoff and flooding potential increases,
 - topsoil is lost,
 - agricultural or vegetative production is reduced,
 - infiltration of rainwater or recharge of groundwater is impaired, or
 - existing or future structures are compromised or rendered unstable or unsupportable.

4.2.2.1 Direct Effects

Section 3.2.2 provided a detailed description of the soils in the Study Area, defined as the southwestern portion of Oneida County and the Northern portion of Madison County. Implementation of the Proposed Action or any of the alternatives (including the No Action

Alternative) would not result in any physical disturbance or loss of soil on Nation lands, adjacent non-Nation lands or on other lands within the Study Area. As such, implementation of the Proposed Action or any of the described alternatives (including the No Action Alternative) would have no direct effect on soils on Nation lands or in the towns, counties or surrounding region.

4.2.2.2 Indirect Effects

Implementation of the Proposed Action and any of the alternatives, including the No Action Alternative, would not result in any activity that would indirectly disturb soils on Nation lands, adjacent non-Nation lands or on other lands within the Study Area. As such, implementation of the Proposed Action or any of the described alternatives (including the No Action Alternative) would not have an indirect effect on soils in the Study Area. Current growth projections associated with the on-going use of the Turning Stone Resort & Casino would not require construction of additional facilities to support new visitors and employees and as a result would not have an effect on soils. Ongoing and future projects that are planned or underway are being constructed in accordance with the Nation's Master Plan which is intended to maintain the Turning Stone Resort & Casino as a destination resort. The effects of these projects would be experienced as part of the projected casino growth. As described in 4.1.4, these ongoing projects are not part of the proposed action. Excluding lands from conveyance into trust would not result in any activity that would disturb soils. Therefore, implementation of the Proposed Action or any of the described alternatives, including the No Action Alternative, would not have an effect on soils.

4.2.2.3 Cumulative Effects

Implementation of the Proposed Action or any of the alternatives (including the No Action Alternative) would not result in any activity that would directly or indirectly result in physical alteration to soils in the region. Therefore, no adverse cumulative effect would result.

4.2.3 Geologic Resources

Significance Criteria

The following criterion was considered in determining whether the action or any of its alternatives (including the No Action Alternative) will result in a significant adverse effect on geologic resources:

- A change to geologic resources such that people or property are exposed to increased hazards associated with faults, seismic or vibration effects, lateral spreading or subsidence.

For a discussion of the environmental consequences of the Proposed Action and its alternatives on extractive uses of geologic resources, see Section 4.8.3 Mining.

4.2.3.1 Direct Effects

Implementation of the Proposed Action and any of the alternatives (including the No Action Alternative) described in Section 2 Alternatives would not result in any physical activity that would disturb or modify geologic resources on Nation lands, adjacent non-Nation lands or on other lands within the Study Area defined in Section 3.2.3 Geological Setting. As such, implementation of the Proposed Action or any of the described alternatives (including the No Action Alternative) would not result in an adverse effect on geologic resources on Nation lands or in the towns, counties or surrounding region.

4.2.3.2 Indirect Effects

Implementation of Alternative A (the Proposed Action) or Alternative B would not result in any activity that would indirectly disturb or modify geologic resources on Nation lands, adjacent Non-Nation lands or on other lands within the Study Area defined in Section 3.2.3 Geological Setting and Mineral Resources. As such, implementation of the Proposed Action or any of the described alternatives (including the No Action Alternative) would have no indirect effect on geologic resources on Nation lands, adjacent Non-Nation lands or on other lands within the Study Area. Growth associated with the on-going use of the Turning Stone Resort & Casino would not result in any indirect effects to the geologic resources within the Study Area. For a discussion of the environmental consequences of the Proposed Action and its alternatives on extractive uses of geologic resources, see Section 4.8.3 Mining. Implementation of the Proposed Action or any of the described alternatives, including the No Action Alternative, would not have an adverse effect on geologic resources.

4.2.3.3 Cumulative Effects

Implementation of the Proposed Action or any of the alternatives (including the No Action Alternative) would not result in any activity that would directly or indirectly result in physical alteration to geologic resources within the communities, counties or region. Therefore, no adverse cumulative effect would result.

4.2.4 Land Use

This section addresses the direct, indirect and cumulative effects on land use of the Proposed Action and other alternatives.

Significance Criteria

For the purposes of identifying whether the Proposed Action or the alternatives, including No Action, would have a potentially significant adverse effect on land use, the following are considered:

- If the action would directly displace a land use and such a loss would adversely affect surrounding land uses, this displacement may be considered a significant adverse effect.

- If an action would generate a land use that would be incompatible with surrounding uses, such a change may be considered significant and adverse if:
 - The land use would interfere with the proper functioning of the affected use or of land use patterns in the area. For example, a heavy manufacturing use near a residential area might diminish the quality of residential use because of noise or air pollution.
 - The effect to land uses would be inconsistent with public policy.
 - The incompatible use would adversely alter neighborhood character.
- If an action is expected to alter land uses in the surrounding area and the anticipated change is substantial, that change is usually considered significant, but not necessarily adverse. The change may be considered adverse if:
 - The use changes would not be compatible with other uses in the area.
 - The use changes would not be compatible with public land use policy.
 - The new development would increase density in the area, and such density does not conform to public policy and plans for the area.
 - The new development would increase density in the area, and such density can be shown to overtax the capacity of the Study Area to support it.
 - The use changes would accelerate existing and anticipated trends in development for the area that lead to adverse socioeconomic effects.

Since the Proposed Action and other alternatives do not propose any changes in the use of Nation lands that would be conveyed into trust under these alternatives, the analysis of effects on land use considers direct and indirect effects but focuses more on the cumulative effects of past, present and reasonably foreseeable future actions by the Nation and others. The analysis also documents the incremental effect of past, present and future actions by the Nation on land use. Additionally, the analysis addresses issues raised by the counties. These include potential adverse effects on non-Nation property owners, and the availability of land in the future for commercial expansion and development by others. Effects on Nation and non-Nation land use are addressed in this section, and effects on land use plans and community planning and zoning are addressed in Section 4.8.6 Land Use Plans and Zoning.

The NYSORPS makes a determination of land use through municipal assessors who survey each property in a community. Using the set of codes developed by the NYSORPS, the assessors then determine the land use of each parcel. When a parcel has more than one use, assessors make a land use determination using NYSORPS codes and either classify the property as a single use if one use is so much more prevalent than the other, or as a mixed-use based on the corresponding code.

NYSORPS land use classifications are:

- Residential – Land used for dwellings or human habitation.

- Commercial – Land used for commerce, retail or wholesale exchange of services and goods.
- Industrial – Land used for the production and distribution of manufactured, durable, and non-durable products.
- Agricultural – Land used for cultivating soil, producing crops, and/or raising livestock.
- Wild/forested/public parks/open space – Land used for wildlife or nature preserves, the appreciation of nature or land that has not been developed.
- Public services – Property used to provide services to the general public and to store, garage or repair motor vehicles and/or equipment used in providing public services.
- Recreation and entertainment – Land used by groups for recreation, amusement or entertainment including theaters, auditoriums, exhibition halls, indoor and outdoor sports, and athletic activities.
- Vacant land – Property that is not in use, lacks permanent improvement or in temporary use including residential vacant land including rural vacant tax lots; underwater vacant land; abandoned agricultural land, and other rural vacant land including waste lands, sand dunes, salt marshes, swamps, rocky areas, and woods not associated with wild/forest/public parks/open space land; vacant land in commercial areas; urban renewal or slum clearance, public utility vacant land, and vacant land in industrial areas.
- Community services – Property used for the well-being of the community including land used for the provision of resources or services to the general community including educational facilities, religious facilities, benevolent associations, cultural facilities, Indian reservations, government buildings, correctional facilities, universities, and military installations (New York State Office of Real Property Services, 2006).

4.2.4.1 Direct Effects

Direct effects on land use can include: a change in the existing use of land (e.g., agricultural to residential); directly displacing an existing land use; increasing the density of an existing land use; or, interfering with the proper functioning of the affected use. Under the criteria for significance stated at the outset, there are no direct significant adverse effects associated with implementation of the Proposed Action or any of the alternatives.

Alternative A. All existing uses on Nation lands, as described in Sections 2 and 3.2.4, would generally continue. There are certain land uses and structures, such as the multifamily dwellings at the Village of the White Pines in the City of Oneida and The Tower Hotel at the Turning Stone Resort & Casino in the Town of Verona, that do not conform with the existing zoning of the communities in which they are located. Under Alternative A, these existing uses and structures, which are not entirely consistent with adjacent land uses, would continue. The Nation presently has an agreement with the City

of Oneida, as well as with the City of Sherrill, under which existing land uses on Nation lands in those communities that may be nonconforming are considered conforming or “grandfathered.” This agreement would expire after the Nation parcels included in Alternative A are conveyed into trust by the United States.

The conveyance of land into trust under Alternative A is not anticipated to have an adverse direct effect on non-Nation land use, as no change in use would occur at the same time the lands are conveyed into trust. Indeed, it could have a beneficial effect by facilitating through Nation management and use of its lands changes in permitted uses of adjoining parcels, thereby facilitating development of those parcels by others. New York State has asserted that any conveyance of lands into trust would have a direct effect on the ability of local governments to regulate land use on lands that are conveyed into trust; this is addressed in Section 4.8.6 Land Use Plans and Zoning.

Alternative B. The direct effects of conveying land into trust under this alternative are anticipated to be similar to the effects identified under Alternative A. However, the geographic extent of those effects would be greater, as an additional 17,630 acres of land would be reacquired by the Nation over time and would be conveyed into trust under Alternative B. Due to uncertainties about the timing, location, existing and future nature of the use of the lands at the time of reacquisition, it is not feasible at this time to analyze the direct effects on land use. Direct effects on the ability of local governments to regulate land use that is conveyed into trust would occur; this is addressed in Section 3.8.6 Land Use Plans and Zoning. It is anticipated that implementation of Alternative B would have potential indirect and cumulative effects; these are discussed elsewhere in this section.

All existing uses on Nation lands would generally continue. Existing nonconforming land uses or structures, such as the multifamily dwellings at the Village of the White Pines in the City of Oneida and The Tower Hotel at the Turning Stone Resort & Casino in the Town of Verona, would continue. The Nation now has an agreement with the City of Oneida, as well as with the City of Sherrill, under which existing land uses on Nation lands in those communities that may be nonconforming are considered conforming or “grandfathered.” This agreement would expire after the Nation parcels included in Alternative B are conveyed into trust by the United States. As a result, these land uses would no longer be subject to local land use plans and policies and zoning and land use regulations in these two communities. The effects of this are discussed in Section 4.8.6.

Alternative C. Under Alternative C, all existing uses on Group 1 and 2 lands would generally continue. Existing nonconforming land uses and structures, such as the multifamily dwellings at the Village of the White Pines in the City of Oneida and The Tower Hotel at the Turning Stone Resort & Casino in the Town of Verona, would continue. Under this alternative, Group 3 lands would not be conveyed into trust.

If the Nation, under the **Property Taxes Paid** scenario, were to pay property taxes on Group 3 lands not conveyed into trust under this alternative, existing uses on those lands would continue but would be regulated by local zoning and land use regulations. Uses or structures on those lands that do not comply with local regulations would be considered to be nonconforming and could be barred altogether or prohibited from expanding in the future. There is the possibility that many, if not all, nonconforming uses would not be allowed to continue, and no variances would be granted. This would have an adverse effect on the use of this land by the Nation. No significant adverse effects on adjacent land uses are anticipated. The continuation, limitation or termination of existing uses on Nation lands in Group 3 would not significantly affect neighboring lands.

If the Nation, under the **Property Taxes Not Paid - Foreclosure** scenario, were to forego paying property taxes on Group 3 lands not conveyed into trust, and the counties were to foreclose on these lands or the lands were alienated from the Nation, existing uses of Group 3 lands by the Nation for agriculture and member housing would cease. The Nation is currently using slightly more than 7,100 acres of Group 3 lands for agriculture, and has another 1,200 acres in Group 3 that were formerly used for agricultural purposes by the Nation or others in the past and would otherwise be used by the Nation in the future. While there is some undeveloped land in Groups 1 and 2 that could possibly be used for agricultural purposes, it amounts to only 250 acres and does not approach the amount of land that would be needed to replace the existing agricultural land that the Nation would no longer possess under this alternative scenario.

Under a scenario whereby the Nation loses all Group 3 lands through foreclosure or alienation, the loss of agricultural land would have a significant adverse effect on the Nation's enterprises, as well as on its lifestyle and culture. In particular, it is unlikely that the existing Black Angus beef farm would remain in operation. Although the Nation would retain agricultural lands in Groups 1 and 2, the existing agricultural infrastructure, including the cattle barn, which is a vital part of the operation, is located on Group 3 lands.

The loss of Group 3 lands under this alternative would have a direct effect on non-Nation farmers, who now lease land from the Nation for farming. It is uncertain whether or not these uses would continue in the future if the lands were to be acquired by others through foreclosure or alienation.

If the Nation (under the **Property Taxes Not Paid - Dispute Continues** scenario) elected not to pay property taxes and foreclosure or alienation of Nation lands were not available, then existing uses would continue. Since existing uses of land by the Nation are primarily compatible with adjacent land uses, there would be no adverse effect on those uses. Uncertainties would exist concerning nonconforming uses and structures.

In the short term, it is likely that Group 3 lands, which the Nation could lose under a scenario of foreclosure or alienation, would remain inactive for the reasonably foreseeable future. The indirect effects of this loss on land use are discussed below, and the direct and indirect effects on other resources, such as archaeological resources, located on these lands are addressed in other Environmental Consequences sections.

Alternative D. Existing uses on Group 1 lands would continue under this alternative. Existing nonconforming facilities, such as The Tower Hotel at the Turning Stone Resort & Casino in the Town of Verona, would continue. In this alternative, the Group 2 and 3 lands would not be conveyed into trust. The continued use of Nation lands in Groups 2 and 3 could depend on whether or not the Nation were to elect to pay property taxes on those lands. If the Nation (under the **Property Taxes Paid** scenario) were to pay property taxes, it is anticipated that the existing use of Nation lands in Groups 2 and 3 would continue, although there are uncertainties that cannot be eliminated regarding lands that do not conform to land use controls of local governments. Specifically, it is uncertain whether or not local communities would seek to end the operation of nonconforming uses by the Nation within their jurisdiction. Similarly, if the Nation (under the **Property Taxes Not Paid - Dispute Continues** scenario) elected not to pay property taxes and foreclosure or alienation of Nation lands were not available, then existing uses would continue. Since existing uses of land by the Nation are primarily compatible with adjacent land uses, there would be no adverse effect on those uses. Uncertainties previously discussed above would exist concerning nonconforming uses (the Village of the White Pines and the Tower Hotel).

If the Nation were to pay property taxes on Group 2 and 3 lands not conveyed into trust under this alternative, no significant adverse direct effects on adjacent land uses are anticipated, as no immediate change in land use is part of the alternative.

Under the **Property Taxes Not Paid - Foreclosure** scenario, whereby the Nation does not pay property taxes and the counties are able to foreclose on Nation properties, or the Nation is obligated to alienate its land, the use of Group 2 and 3 lands would cease. This would include most Nation member housing, except for two residences on Group 1 lands, the majority of agricultural land, including all land that is used for production of Black Angus beef and traditional Iroquois agriculture, Nation government facilities, cultural facilities (including the archeological and cultural sites, Shako: wi Cultural Center, and festival sites), and many of the Nation's business enterprises, including all but one of the SavOn gas stations and convenience stores.

Existing uses on Group 2 and 3 lands in the City of Oneida and City of Sherrill may be able to continue, in the short term, as the Nation owes no back taxes on these lands under agreements made with these communities. However, the agreements require the Nation to make payments to the communities in the future when property taxes are due. If the

Nation does not pay future property taxes due on its lands located in these communities, then the use, and potential ownership, of these lands by the Nation would also end.

Alternative E. Existing uses on Parcels 10 and 109 would continue under this alternative. The continued use by the Nation of most Group 1 lands and all Group 2 and 3 lands would depend, in part, on whether local governments would allow any existing nonconforming uses to continue. It would also depend on whether or not the Nation elected to pay property taxes on those lands. If the Nation (under **Property Taxes Paid**) were to pay property taxes, it is anticipated that the existing use of Nation lands in Groups 1, 2 and 3 would continue. Similarly, if the Nation (under **Property Taxes Not Paid - Dispute Continues**) elected not to pay property taxes and foreclosure or alienation of Nation lands were unavailable, and then existing uses would continue.

If the Nation were to pay property taxes on Group 1, 2 and 3 lands not conveyed into trust under this alternative, no significant adverse direct effects on adjacent land uses are anticipated, as no change in land use would occur as part of the alternative and existing uses of land by the Nation are primarily compatible with adjacent land uses. There will be uncertainties about nonconforming issues (the Village of the White Pines and the Tower Hotel). There may be a potential beneficial effect on adjacent non-Nation land uses in the future, as future use and development of Group 1, 2 and 3 lands by the Nation would need to comply with local regulations. Conversely, any existing nonconforming uses of land by the Nation may be prohibited under local zoning from expansion. This would have a adverse effect on the Nation's ability to use or develop its land in the future to meet its need for new member housing and other purposes, including continued economic development.

Under the **Property Taxes Not Paid - Foreclosure** scenario, whereby the Nation does not pay property taxes, the counties are able to foreclose on Nation properties, or the Nation is obligated to alienate its land, the use of most Group 1 lands and all Group 2 and 3 lands would cease. This would include all Nation member housing, all agricultural land, including all land that is used for production of Black Angus beef and traditional Iroquois agriculture, Nation government facilities, cultural lands and facilities, and most of the Nation's business enterprises, including all but one of the SavOn gas stations and convenience stores and most of the land associated with the Turning Stone Resort & Casino.

Alternative F. Under Alternative F, less agricultural, commercial, community services, and residential land would be conveyed into trust than under Alternatives A and B. Alternative F also does not include lands in Stockbridge, Augusta, Cazenovia and Sullivan and some lands in Lincoln, Lenox, Smithfield and Verona that are included in Alternative A. Most of the additional Group 3 lands that are included here, but not in Alternative C, are lands contiguous to existing Nation lands in Groups 1 and 2 that would be conveyed

into trust under Alternative C. However, the geographic extent of effects under Alternative F would be greater than Alternative C, as Alternative F includes Group 3 lands in the Towns of Fenner, Smithfield, Lincoln, Lenox, Verona, and Vernon and the City of Oneida, that are not included in Alternative C.

Existing uses on Group 1 lands would continue under this alternative. Existing nonconforming land uses and facilities, such as the multifamily dwellings at the Village of the White Pines in the City of Oneida and The Tower Hotel at the Turning Stone Resort & Casino in the Town of Verona, would continue. The continued use of the more than 5,000 acres of Nation lands in Group 2 and 3 that would not be conveyed into trust under this alternative would depend on whether or not the Nation were to elect to pay property taxes on those lands. If the Nation (under **Property Taxes Paid** scenario) were to pay property taxes, it is anticipated that the existing use of non-trust Nation lands in Groups 1, 2 and 3 would continue. Similarly, if the Nation (under **Property Taxes Not Paid - Dispute Continues**) did not pay property taxes, and local enforcement of regulations remains in dispute, existing uses would continue.

If the Nation were to pay property taxes on Group 2 and 3 lands not conveyed into trust under this alternative, no significant adverse effects on adjacent land uses are anticipated, as no immediate change in land use is part of the alternative.

Under the **Property Taxes Not Paid - Foreclosure** scenario, whereby the Nation does not pay property taxes, the counties foreclose on Nation properties, or the Nation is obligated to alienate its land, the use of those Group 2 and 3 lands not conveyed into trust would cease. This would include important agricultural lands that support the Black Angus beef operation, the sand and gravel quarry, and some member housing.

Alternative F would provide the Nation with more agricultural land, undeveloped land, and culturally important lands but less residential land than Alternative C. In particular, six fewer residences than Alternative C and 20 fewer residences than Alternative A would be conveyed into trust. Additionally, eight fewer potential residential sites would be conveyed into trust under Alternative F than under Alternative A. The amount of commercial land conveyed into trust under Alternative F would be substantially the same as Alternative A.

Alternative G. Under the **Casino Closes and All Enterprises Close** scenario, land now used by the Nation for the Turning Stone Resort & Casino would no longer be used for such purposes. Existing uses (golf, event center, retail, lodging, restaurants) at the Turning Stone Resort & Casino would not continue, as they were developed as ancillary uses to the casino and are directly linked to its operation. As a result, the land would remain inactive for the reasonably foreseeable future, as the developed property and facilities can be economically maintained only if used in conjunction with a large casino gaming business.

It cannot be profitably operated as an existing independent mall, hotel, business park or industrial complex.

Assuming the Nation was to retain the land it now owns, most Nation lands that are currently being used by the Nation for a variety of purposes would become inactive, as limited revenues would not support the existing improvements and operations on these lands. The possible exception may be a few SavOn gas stations and convenience stores, if they remain economically viable. All other lands would become inactive. These lands may remain inactive for an extended period of time and would deteriorate. This would include member housing, other government and service facilities, and enterprise operations. These other enterprise operations include agricultural operations, which primarily support the Turning Stone Resort & Casino, and most SavOn gas stations and convenience stores, which would not likely survive in an environment where property, excise and sales taxes would be collected.

Under the **Property Taxes Not Paid - Foreclosure** scenario, it would be unlikely that the casino would remain open – it would close. Additionally, the Nation would lose other lands through foreclosure or alienation, and once out of the Nation’s control, most lands could be developed by others as permitted by local zoning regulations. Redevelopment of the Turning Stone Resort & Casino, however, is unlikely from an economic standpoint.

Under the **Property Taxes Paid** scenario, the Nation would pay taxes on the lands that are not conveyed into trust, some Nation land uses would be non-conforming with zoning rules and regulations of communities in which they were located, the most significant being the multifamily dwellings at the Village of the White Pines member housing complex and the Tower Hotel. As a result, these uses may be precluded from expanding in the future. This would have an adverse effect on the Nation and its ability to use its land to meet the needs of the Nation and its members.

Under the **Property Taxes Not Paid - Dispute Continues** scenario, existing uses of the land by the Nation would continue. The Nation would continue to develop these lands to meet the needs of the Nation and its members. New York State tax and regulatory jurisdiction would continue to be disputed.

Those scenarios that would allow local jurisdiction of Nation lands may have a beneficial effect on existing non-Nation land uses. It would allow communities to implement master and comprehensive plans through their zoning and other land use regulations. Moreover, it would provide predictability with regard to the range of future uses of land that may be developed in a specific zoning district. It would also allow governments, if they so desired, to remove nonconforming uses, such as the Children and Elders Center, some housing at the Village of the White Pines, and the Shako: wi Cultural Center.

4.2.4.2 Indirect Effects

Indirect effects on land use could be caused by future development after the land is conveyed into trust. Indirect effects can include the type of direct effects identified previously, as well as, changes in neighborhood character over time, acceleration of existing or anticipated trends in development for the area that affect socioeconomic conditions and public safety.

Alternative A. As no changes in the existing use of land are anticipated as a direct result of Alternative A, potential indirect effects on adjacent and nearby land uses are not anticipated.

The direct effects on land use from the jurisdictional environment that would be created from implementation of this alternative, as well as other alternatives that would convey more or less land into trust, are addressed in Section 4.8.6.

While a potential adverse effect on non-Nation land uses adjacent to Nation lands could be a possible result of this alternative, the magnitude of this effect is not anticipated to be significant. Specifically, in areas in the City of Oneida where the Nation has created a PUD, the Oneida Indian Nation Land Use Ordinance provides that the developments “enhance the quality of life of residents, create an inviting visual character, and are harmonious and compatible with adjoining land uses” (The Nation, 1998). Similar provisions are included in the Oneida Indian Nation Land Use Ordinance to regulate home occupations in Unassigned Residential Districts (URD) and in Community and Governmental Districts. Moreover, within “. . . all lands possessed, occupied or held by or for the Oneida Indian Nation in its sovereign capacity” the Nation’s Land Use Ordinance requires that all existing land uses cannot be substantially changed or altered without a Land Use Permit (LUP). In determining whether or not to issue a LUP, the Nation considers the “. . . compatibility of the use . . .”, “. . .[t]he location of the proposed use and its physical harmony with the area in which it is proposed. . .”, and “. . .[t]he environmental impact of the use;” The Nation’s past practices on lands mapped in a specific district or in a URD indicate that it would continue to do so in developing lands in the future.

Alternative B. As no changes in the existing use of land are anticipated as a result of Alternative B, indirect effects on non-Nation land uses adjacent to Nation lands are not anticipated.

Alternative C. Indirect effects on land use would vary depending on the potential conditions discussed below.

Under the **Property Taxes Not Paid – Foreclosure** scenario, with the loss of 14 Nation homes on Group 3 lands, Nation members may not have the financial resources to purchase the land on which their homes are located. If clear title could not be obtained for

these properties, it is uncertain that the homes would be purchased by non-Nation individuals. Under that possibility, they would remain vacant in the short term and would eventually deteriorate over time from lack of maintenance. This would have an indirect, adverse effect on adjacent land owned by the Nation and others.

Under circumstances where existing Nation lands in Group 3 become inactive (**Property Taxes Not Paid - Foreclosure** scenario), the maintenance and upkeep of these lands would not occur until such time as they may be purchased and reused by others. In the intervening period, these lands would not be maintained by the Nation or by others. As a result, lands that contain existing improvements, which include residences and agricultural structures, would begin to deteriorate. This would have an adverse effect on neighborhood character and on non-Native American residential uses adjacent to these lands.

Given the abundance of agriculture in Oneida and Madison Counties and the undeveloped status of much of the Nation's farmland prior to reacquisition by the Nation, it is unlikely that many of these lands would be returned to active agricultural use. Moreover, it is likely in the short term that a certain portion of these lands would be redeveloped by others for purposes that would be inconsistent with the stated goals and objectives of local communities, such as the preservation of agriculture, as described in their comprehensive and master plans.

Under the **Property Taxes Paid – Dispute Continues** scenario, the Nation would continue to use and manage its lands under its existing land use ordinance and other regulations, while the local governments claim that the Nation's use of its lands be in accordance with local zoning and other land use regulations. While a few existing land uses on Nation lands do not appear to conform to local land use regulations, and may be incompatible with adjacent non-Nation land uses, most existing land uses, including agricultural, residential and commercial uses, on Nation lands are consistent with the nature of adjacent land uses.

Since the development of member housing on Group 3 lands would be able to continue as already planned if the lands are conveyed into trust and since this use would be consistent with the character of adjacent land uses, it is not anticipated that this would have an effect on non-Nation land uses.

Under the **Property Taxes Paid** scenario whereby the Nation pays property taxes, the land would be subject to local zoning and other local land use regulations, as well as State regulations. As a result, adjacent non-Nation land uses may benefit to varying degrees, as future use and development of Group 3 lands by the Nation or others would need to comply with local zoning and other regulations. Conversely, any existing nonconforming uses of land by the Nation may be prohibited from expansion under local zoning. This would have a adverse effect on the Nation's ability to use or develop its land in the future to meet its need for new member housing and other facilities.

Alternative D. Under the **Property Taxes Paid** scenario, the Nation would retain their land in Groups 2 and 3, which would be subject to local land use regulation. Similar indirect effects identified under Alternative C would occur. Adjacent non-Nation land uses may benefit, as future use and development of Group 2 and 3 lands by the Nation would be subject to local zoning and other regulations. Conversely, any existing nonconforming uses of land by the Nation may be prohibited under local zoning from expansion. This would have an adverse effect on the Nation's ability to use or develop its land in the future to meet its need for new member housing, as all proposed new housing sites are located on Group 2 and 3 lands.

Under the **Property Taxes Not Paid – Foreclosure** scenario, with the potential loss of 83 Nation homes on Group 2 and 3 lands, Nation members may not have the financial resources to purchase the land on which their homes are located. Additionally, 49 of these residences are rental units at the Village of the White Pines and would not likely be available for purchase by Nation members. If clear title could not be obtained for the properties with residences that are owned by Nation members, it is uncertain that the homes would be purchased by non-Nation individuals. Under that possibility, the structures would remain vacant in the short term and would eventually deteriorate over time from lack of maintenance. This would have an indirect, adverse effect on adjacent land owned by the Nation and others.

Under circumstances where existing Nation lands in Groups 2 and 3 become inactive (**Property Taxes Not Paid – Foreclosure** scenario), the maintenance and upkeep of these lands would not occur until such time as they may be purchased and reused by others. In the intervening period, these lands would not be maintained by the Nation or by others. As a result, lands that contain existing improvements, which include the SavOn gas stations and convenience stores, residences and agricultural structures, would begin to deteriorate. This would have an adverse effect on neighborhood character and on non-Nation uses adjacent to these lands.

Given USDA data which shows a decline in agriculture in Oneida and Madison Counties over recent years, and the undeveloped status of much of the Nation's farmland prior to reacquisition by the Nation, it is uncertain that many of these lands would be returned to active agricultural use. Moreover, it is likely in the short term that a certain portion of these lands would be redeveloped by others for purposes that would be inconsistent with the stated goals and objectives of local communities to preserve agriculture, as described in their comprehensive and master plans.

Under the **Property Taxes Paid – Dispute Continues** scenario, the Nation would continue to use and manage lands in Groups 2 and 3 under its existing land use ordinance and other regulations, while the local governments claim that the Nation's use of its lands be in accordance with local zoning and other land use regulations.

Alternative E. Under Alternative E, only Parcels 10 and 109 would be conveyed into trust. The balance of the Nation's land would be excluded from trust status. Under a scenario whereby the Nation does not pay property taxes, indirect effects would be similar to those previously described under Alternative D. In addition, however, with the loss of the golf courses and other uses that comprise the Turning Stone Resort & Casino, including The Lodge at Turning Stone, the golf courses, the Villages at Turning Stone RV Park, and other facilities, the number of visitors to the resort would decline, resulting in indirect socioeconomic effects.

It is highly probable that the existing resort facilities that are not conveyed into trust would remain inactive for the reasonably foreseeable future. In circumstances where existing Nation lands in Groups 1, 2 and 3 become inactive (**Property Taxes Not Paid – Foreclosure** scenario), the maintenance and upkeep of these lands would not occur until such time as they may be purchased and reused by others, which could take a long time or never occur because of the difficulty of operating these properties profitably. In the intervening period, these lands would not be maintained by the Nation or by others. As a result, lands that contain existing improvements would begin to deteriorate. Deterioration of the grounds at the golf courses may have the greatest effect on adjacent uses, as these are located at the periphery of the Turning Stone Resort & Casino and closest to adjacent residential and other uses. This would have an adverse effect on neighborhood character and on non-Nation uses adjacent to these lands.

Under a **Property Taxes Paid** scenario, the Nation would retain their land in Groups 1, 2 and 3, which would be subject to local land use regulation. Similar indirect effects identified under Alternative C would occur. Adjacent non-Nation land uses may benefit, as future use and development of Group 1, 2 and 3 lands by the Nation would be subject to local zoning and other land use regulations. Conversely, any existing nonconforming uses of land by the Nation may be prohibited under local zoning from expansion. This would have a adverse effect on the Nation's ability to use or develop its land in the future to meet its need for new member housing, for example.

Alternative F. Indirect effects from implementation of Alternative F would be similar to Alternative A but less significant with regard to the geographic extent of the effects, as the amount of Alternative F lands is less than under Alternative A, and Alternative F would affect fewer communities than would Alternative A. As a result, some municipalities, like Stockbridge, will be able to implement planning and land use policies for all lands throughout their community.

Under the **Property Taxes Paid** and **Property Taxes Not Paid – Foreclosure** scenarios whereby the Nation either pays or does not pay property taxes, respectively, the land retained by the Nation under **Property Taxes Paid** or owned by others under **Property Taxes Not Paid – Foreclosure**, would be subject to local zoning and other local land use

regulations, as well as State regulations. As a result, adjacent non-Nation land uses may benefit to varying degrees, as future use and development by the Nation or others would be subject to local zoning and other regulations. Conversely, any existing nonconforming uses of land by the Nation may be prohibited under local zoning from expansion. Under the **Property Taxes Paid** scenario, this would have an adverse effect on the Nation's ability to use or develop its land to meet its need for new member housing and other facilities.

Alternative G. Under the **Casino Closes and All Enterprises Close** scenario, changes in land use from additional development induced by the operation and growth of the Turning Stone Resort & Casino, such as the Verona Greens mixed-use project, would not likely occur. The Verona Greens project includes facilities (hotels, retail, and restaurants) that were planned based on the operation and expansion of the Turning Stone Resort & Casino. While this would reduce any adverse effects on the physical environment, it would have an adverse socioeconomic effect on the Town of Verona and the region.

Over time, the inability to maintain existing improvements (buildings, etc.) on lands that the Nation now owns would lead to their physical deterioration, which would have an adverse effect on the aesthetics of the properties, surrounding land uses, and the neighborhood and community character of such communities as the Town of Verona, the Town of Vernon and other municipalities where the Nation owns multiple properties.

Under scenarios whereby the casino closes or the Nation loses its land through foreclosure or alienation, certain potential future actions by the Nation would not occur. There would be an adverse effect on Nation members, who are awaiting the construction of new housing, and the loss of potential benefits to the local economy from housing construction and the construction and operation of a night club. These indirect socioeconomic effects are discussed further in Section 4.7 Socioeconomics.

Assuming that the Nation loses its land from foreclosure (**Property Taxes Not Paid – Foreclosure** scenario) or alienation, some existing uses (e.g., gas stations, housing) may continue but under non-Nation ownership. Given the economic condition of the Central New York region and the continual decline in agriculture as reported by the USDA and discussed under the Cumulative Effects section below, it is likely that the majority of existing undeveloped and agricultural land currently owned by the Nation would not be used for agriculture but would be developed over time for other uses.

Under a scenario in which the casino remains open but the Nation does not pay taxes, the Nation could risk losing these lands through foreclosure (**Property Taxes Not Paid – Foreclosure** scenario) or alienation, and once out of the Nation's control, the lands could be developed by others as allowed by local zoning regulations. Until such time as the lands were to be acquired by others, the properties would likely deteriorate from a lack of maintenance. Further, the risk of such deterioration is high, since it may be difficult to find a purchaser who could successfully develop the lands for commercial, non-gaming uses.

This would be expected to have an adverse effect on uses of non-Nation lands adjacent to existing Nation lands.

Under a scenario in which the Nation pays taxes (**Property Taxes Paid**) on the lands but they are not conveyed into trust, some Nation land uses would be nonconforming with zoning rules and regulations in which they are located, the most significant being the Village of the White Pines member housing complex. As a result, these uses would likely be precluded from expanding in the future. This would have a potentially beneficial effect on adjacent land uses, as Nation uses that conflict with adjacent uses could not be expanded under this scenario. Moreover, Nation use of lands that are presently undeveloped would need to be developed with uses that are allowed by the zoning district in which the lands are located.

Under the **Property Taxes Not Paid - Dispute Continues** scenario, existing uses of the land by the Nation would continue. Moreover, the Nation would continue to develop these lands under its existing plans and programs to meet the needs of the Nation and its members. This could result in land uses that are not entirely compatible with adjacent non-Nation lands where uses are regulated by local zoning regulations and other land use regulations. This would have a beneficial effect on the Nation and its members but a potentially adverse effect on non-Nation land uses and the surrounding community from the development of uses that may be inconsistent or incompatible with adjacent and surrounding land uses and with local plans and policies.

4.2.4.3 Cumulative Effects

The cumulative effects analysis for land use examines past actions by the Nation since it reacquired lands that are proposed to be conveyed into trust, current and proposed actions by the Nation and others, and reasonably foreseeable changes in land use on Nation and non-Nation lands in the Study Area over the next five years.

Alternative A. Between 1987, when the Nation began to reacquire lands within its reservation, and the preparation of this Draft EIS, the region encompassing Oneida and Madison Counties has experienced a decline in agriculture and its manufacturing base. Major changes in land use have included the closure of the 3,500 acre Griffiss Air Force Base in Rome in the early 1990's and the closing of Oneida Limited's Sherrill manufacturing plant in 2005.

Since 1987, a total of approximately 867 acres of Nation land in Oneida County was converted from agricultural to nonagricultural use. No agricultural land reacquired by the Nation in Madison County was converted to nonagricultural use. Conversely, slightly more than 5,000 acres of land was converted to agricultural use after reacquisition by the Nation. The overall effect resulted in a net increase of nearly 4,200 acres in land used for agriculture following reacquisition by the Nation. By contrast, during the period 1987-2002, the number of acres of farmland in Oneida County declined from 285,731 acres in

1987 to 220,486 acres in 2002, or 65,245 acres during this 15-year period. Similar statistics for Madison County reveal a decline from 212,084 acres of farmland in 1987 to 168,264 acres in 2002, or 43,820 acres during this period (USDA, NAAS, 2002; USDA, NAAS, 2006).

**Table 4.2-1
Land Use Change on Nation Lands 1987 - 2005**

Former Use	Existing Land Use (acres)									Grand Total
	Ag.	Res.	Vacant	Comm.	Rec. & Ent.	Comm. Services	Ind.	Pub. Serv.	W, F, CL & PP	
Agricultural (Ag)	-	346	-	-	521	-	-	-	-	867
Residential (Res)	1,522	-	35	47	286	144	125	1	17	2,177
Vacant Land	7,147	440	-	109	509	9	-	25	455	8,695
Commercial (Comm)	10	0.7	-	-	-	0.2	-	3	-	14
Recreation & Entertainment	-	6	-	0.5	-	-	-	-	-	7
Community Services	-	-	-	-	-	-	-	-	-	-
Industrial (Ind)	-	-	-	4	-	2	-	-	-	5
Public Services	-	-	-	-	-	-	-	-	-	-
Wild (W), Forested (F), Conservation Lands (CL) & Public Parks (PP)	-	0.2	-	-	-	-	-	-	-	0.2
Total Acreage	8,679	793	35	161	1,317	155	125	29	472	11,766

Notes: The total acres are the amount of land where a change of use occurred since reacquisition by the Nation. Totals may not add up due to rounding.

In Madison County, approximately 4,395 acres, or two-thirds of the 6,594 acres of Nation land in the County, experienced a change in use from the time it was reacquired by the Nation. Most of those changes resulted in land that was formerly vacant being used for agricultural purposes. Land placed in use for agriculture was primarily former vacant land or former residential land.

Slightly more than two-thirds, or 11,766 acres, of all Nation land to be placed in trust under Alternative A experienced some change since being reacquired by the Nation beginning in 1987. Much of the change in land use on Nation lands has resulted from former vacant land being placed in active use for agriculture. This former vacant land included residential vacant land, rural vacant lots on less than and greater than 10 acres, abandoned agricultural land, and other rural vacant lands.

The majority (63 percent or 7,370 acres) of Nation land that experienced a change in use occurred on land located in Oneida County. This area is slightly more than two-thirds of the 10,776 acres of Nation lands that are in Oneida County. Most of these changes resulted in land that was formerly vacant being used for agricultural purposes or for recreation and entertainment. Land placed in use for agriculture was formerly vacant or residential land, while land converted for recreation and entertainment use was formerly vacant or used for agricultural or residential purposes. Within Oneida County, the vast majority of land use changes on Nation land occurred in Verona and Vernon in association with development of the Turning Stone Resort & Casino.

Among the most notable changes in land use that the Nation has made on the land that it reacquired are the following:

- Development of the Turning Stone Resort & Casino in the Town of Verona and Town of Vernon on formerly vacant, agricultural and residential lands. This development included the creation of the casino in 1993, two significant expansions of the Turning Stone Resort & Casino in 1997 and 2004, that included the lodge, spa, pool, event center and Tower Hotel and a current “rounding out” of the Turning Stone Resort & Casino according to its Master Plan. The resort is located along a major highway corridor in an agricultural and rural residential area.
- Development of housing for Nation members on lands that were formerly vacant or used for agricultural or residential purposes. In developing this housing, the Nation renovated a number of existing residences on land that it reacquired.
- Of the 105 Nation parcels with member housing, more than one-quarter represent former residential properties with homes that were renovated to provide housing for Nation members. In that regard, the Nation’s reacquisition of these lands and improvements to residences located on them has benefited the communities and neighborhoods within which these homes are located.
- Construction of new SavOn gas stations and convenience stores and renovation of existing, vacant commercial properties. The vast majority of SavOn gas stations and convenience stores were established through renovation of existing service stations after acquisition by the Nation. Only the SavOn gas stations and convenience stores at Patrick Road, which also includes a car care center, in Verona, Route 31 and 13 in Lenox, the Canastota SavOn gas station and convenience store on North Peterboro Street, and the Beachmart SavOn gas station and convenience store on Route 13 in Verona Beach are new facilities. The Patrick Road SavOn gas station and convenience store is located on former commercial land along NYS Route 365 in a predominantly agricultural and rural residential area. The SavOn gas station and convenience store at the intersection of Routes 31 and 13 in Lenox is located on the south side of Route 31 across from the Marion Manor Marina. It is on a former gas station site in a predominantly residential area with some vacant land. The Canastota SavOn gas station and convenience store is located on former vacant farmland in a commercial area that also includes a restaurant, a non-Nation gasoline service station, some residential uses to the

- south, and the Nation festival site to the east. The Beachmart SavOn gas station and convenience store is located on the west side of Route 13 in Verona Beach on former residential land. It is immediately south of a former gas station site now owned by the Nation and is adjacent to a predominantly residential area that also includes some vacant land and community services.
- Construction of the Ray Elms Children & Elders Center next to the Village of the White Pines member housing development to the east of State Route 46 and the Shako: wi Cultural Center in the City of Oneida. The Center and the Village are located on former residential land in an agricultural and rural residential area.
 - Development of agricultural uses on rural residential and formerly used agricultural lands. This included the construction of a barn, known as the Heifer Hotel and for facilities related to the Black Angus beef farm. The barn is located on Nation Parcel 210 along State Route 46 in the Town of Stockbridge in Madison County.
 - Demolition of substandard structures that could not be rehabilitated for use by Nation members. To date, the Nation has demolished structures on a limited number of parcels. These structures were primarily former residences and agricultural structures located in the Town of Verona. Demolition of remaining deteriorated structures will take place in 2006.

Past activities by the Nation have resulted in some land uses that are of a type or magnitude different than that which is allowed by local land use and zoning regulations. In particular, Tower at Turning Stone, at 19 stories and over 200 feet in height, is taller than if it had been constructed within the maximum height of 40 feet allowed under the Town of Verona PUD District requirements. The structure, therefore, has a greater visual effect, than otherwise would be possible under local land use controls.

Additionally, the type and density of some residential development, notably the multifamily dwellings at the Village of the White Pines, has resulted in residential land use that is not entirely consistent with single-family residences that are located opposite the White Pines Village and in the immediate vicinity. There are many instances in the City of Oneida, however, where single-family residential uses are located immediately adjacent to multifamily residences. The Nation's housing at the Village of the White Pines consists of single-family housing as well as structures housing two-families. There are no apartment buildings on the premises.

As part of an ongoing program by the Nation to demolish structures that were substandard at the time they were acquired by the Nation, numerous structures are pending demolition (See list in Appendix I). The majority of these are former residences, many of which were on farms operated by non-Nation members prior to their acquisition by the Nation. The Nation anticipates that the demolition program will be completed by the fall of 2006. As a result, the aesthetics of the lands on which these structures are located will improve. Taken together, this is anticipated to have a beneficial effect on residential and other land uses that are adjacent to these Nation lands.

Future development planned on Nation parcels that applies collectively to Group 1, 2, and 3 lands is described in Section 4.1.4.

According to a variety of sources, several major private development projects have been proposed in the Study Area. These projects, described in Section 4.1.5, may become operational during the next five years. These projects would not have the jurisdiction effects that could result from the implementation of the proposed action or any of the trust alternatives. AS a result, there is not the potential for cumulative effects associated with these projects.

Overall, the future uses planned for the Nation's land as part of existing plans and programs are, in essence, similar to their existing uses.

The new 22,000 square-foot spa, currently under construction between The Lodge Hotel and the Shenendoah Club House, and the construction of a 15,000 – 18,000 square-foot nightclub at the rear of the casino in Verona are consistent with existing land uses at the Turning Stone Resort & Casino. Other projects are either underway or planned for the near term including six new tennis courts, a 12,000 square-foot racquet ball and squash club and clubhouse, a traditional Native American "Sweat Lodge" and a helipad. These facilities would intensify the use of land at the resort. Specifically, the total area of these facilities would increase the total square footage of buildings and facilities at the resort (excluding the Kaluhyat and Atunyote golf course structures). However, this increase in the intensity of land use at the Turning Stone Resort & Casino is considered to be relatively minor.

The Nation has identified a total of 15 proposed sites for construction of member housing in the reasonably foreseeable future. This housing would be located in the communities of Lenox, Lincoln, Stockbridge, and Sullivan in Madison County and in Vernon and Verona in Oneida County. A majority, or two-thirds, of these sites are presently being used by the Nation for agricultural purposes, primarily for growing and harvesting field crops. Because the vast majority of these sites are large in size, the conversion of a relatively small portion of the parcel to residential use is not expected to have a significant effect on the use of the land for agriculture.

Non-Nation land adjacent to the proposed housing sites generally include agricultural, low-density residential, and some undeveloped land. The pattern and density of residential development appears to be typical of rural communities where residential development occurs on larger lots along major roads. Given the character of existing land uses adjacent to and near the Nation's known future housing sites, it is anticipated that future development of these sites to provide member housing would not have a significant effect on adjacent land use.

Overall, the data and analysis indicate that the effect of past, present and reasonably foreseeable future actions by the Nation, local communities and private developers considered with Alternative A, which has no direct effects on land use, would not have an adverse cumulative effect on land use in the counties and communities where Nation land would be conveyed into trust. Past activities of the Nation have reestablished and sustained existing uses of land. Specifically, the data suggest that past and current activities by the Nation are having an overall beneficial effect on land use by placing former agricultural lands into productive agricultural use and maintaining other uses (residential and commercial) through renovation and redevelopment of lands acquired by the Nation. Additionally, land uses changes contemplated by the Nation in the reasonably foreseeable future appear to be consistent with the type and density of existing land use.

In areas in the City of Oneida where the Nation has created a Planned Unit Development District, the Nation's Land Use Ordinance provides that the developments "enhance the quality of life of residents, create an inviting visual character, and are harmonious and compatible with adjoining land uses" (Oneida Nation, 1998). Similar provisions are included in the Nation's Land Use Ordinance to regulate home occupations in Unassigned Residential Districts (R-U) and in Community and Governmental Districts. Moreover, as stated in the Nation's Land Use Ordinance, it is required that all existing land uses cannot be substantially changed or altered without a Land Use Permit (LUP). In determining whether or not to issue a LUP, the Nation considers the ". . . compatibility of the use . . .", ". . .[t]he location of the proposed use and its physical harmony with the area in which it is proposed. . .", and ". . .[t]he environmental impact of the use;" The Nation's past practices on lands mapped in a specific district, in a R-U District, or other lands under its jurisdiction indicate that it would continue to maintain the same approach and attitude in developing lands in the future. Therefore, the cumulative effect on land use as a result of this alternative is not anticipated to be significant or adverse.

Alternative B. Cumulative effects on land use from past actions by the Nation on lands included under Alternatives A and B would be the same. The difference between these two alternatives will occur from future actions on lands that have not yet been reacquired by the Nation. Undoubtedly, past actions since 1987 by others on the additional 17,630 acres of land that would be placed in trust under Alternative B have resulted in changes in land use. These changes may have had a direct or indirect effect on land use. However, since the location of the 17,630 acres of land is not specifically known at this time, it is not feasible to include either past actions or future actions on these lands in this analysis.

Effects on land use from present actions by the Nation unrelated to the trust transfer on lands included under Alternative B would be the same as Alternative A. Since the location of additional lands to be conveyed into trust under Alternative B is presently unknown, it is not feasible to include the cumulative effects from present actions that may or may not

be occurring on those lands and future actions that would have a direct or indirect effect on land use.

In the long-term, potential cumulative effects on land use under Alternative B may be greater than under Alternative A due to the larger land area conveyed into trust and the potential changes in land use that may occur. However, the Nation's past practices in developing land and commitment for future development, as embodied in its Land Use Ordinance, indicate that uses would be developed in a manner that enhances the quality of life of residents and is harmonious and compatible with adjoining land uses. The geographic extent of the effect would be limited to land in Oneida and Madison Counties. Moreover, with the exception of land containing cultural resources, which would remain undeveloped to protect the resource, the Nation is likely to acquire lands near existing Nation lands in order to continue establishing a compact area.

The effect on Madison and Oneida County communities would be greater under Alternative B than under Alternative A, as more land area would not be under the jurisdiction of local governments. The magnitude of this effect will depend on the location of the lands that would be reacquired by the Nation and conveyed into trust. In some communities like the Town of Verona in Oneida County and the City of Oneida and Town of Stockbridge in Madison County, the Nation already owns a significant percentage of the land area. Additional acquisitions in these communities would increase the difficulty of future land use planning in these communities. Furthermore, it may also bring about more pressure to develop agricultural or undeveloped non-Nation lands as the amount of agricultural and undeveloped land available in the free marketplace would decline with each reacquisition by the Nation.

Alternative C. Past actions by the Nation and the resulting effects under Alternative C are similar to the effects identified under Alternative A. However, the nature and geographic extent of the changes and resulting effects are different.

Approximately 7,021 acres, or 71 percent, of all Nation land to be placed in trust under this alternative experienced some change since being reacquired by the Nation beginning in 1987. Much of the change in land use on Nation lands in Groups 1 and 2 has resulted from former vacant land being placed in active use for agriculture. This former vacant land included residential vacant land, rural vacant lots on less than and greater than 10 acres, abandoned agricultural land and other rural vacant lands.

As discussed in the analysis of Alternative A, since the Nation began reacquiring land in 1987 it has placed a considerable amount of land that was either vacant, inactive farmland or other land into active agricultural use. On lands in Groups 1 and 2, it is estimated that the Nation placed nearly 3,200 acres of vacant farmland into active use for agricultural purposes, and converted an additional 900 acres from residential use, as reported by the Nation, to agricultural use. Upon further analysis, much of this land appears to have been

vacant agricultural land or vacant residential land that may have contained an existing residence. Approximately 600 acres of former residential land was converted to nonresidential use, primarily for recreation and entertainment purposes associated with the Turning Stone Resort & Casino.

The Nation is presently in the midst of a program to demolish dilapidated or unsightly structures on its lands. To date, the Nation has completed demolition of buildings on a limited number of Group 1 and 2 parcels. Most of the parcels included former residences and agricultural buildings (barns, sheds, silos).

There are presently a number of Group 1 and 2 parcels where existing structures are pending demolition pursuant to ongoing Nation plans. Vacant residences are located on nearly all of these parcels, and many include sheds and barns. The completion of this program will have a beneficial effect on adjacent lands uses through improvement of the aesthetic environment and the character of the neighborhoods and communities where the parcels are located. A complete listing of the parcels slated for the demolition of structures is included in Appendix I.

Future land use changes from proposed developments on non-Nation lands in the Study Area are anticipated to be similar to those previously identified. They include proposed development at the Turning Stone Resort & Casino, a new spa and a night club at the rear of the casino. The approximately 15,000 square foot addition to the resort represents a minor increase, however, in the total building area on this parcel.

The Nation has identified a total of eight proposed sites for construction of member housing on Group 2 lands in the reasonably foreseeable future. This housing would be located in the Towns of Verona and Vernon in Oneida County and the Towns of Lenox, Lincoln and Sullivan in Madison County. Slightly more than one-half of these sites were former dairy farms or vacant farmland at the time they were acquired by the Nation. Today, one-half of these sites are being used by the Nation for agriculture, primarily for crop production, and the other half are inactive or active residential properties. Lands adjacent to the sites are owned by the Nation and others. Some of these lands are vacant, while other lands are being used for agricultural uses or contain residences on larger lots that are of a rural residential nature.

Member housing that has been constructed in the past by the Nation on individual lots beyond the Village of the White Pines has been for single-family residences. The future use of the proposed sites for member housing is anticipated to be compatible with adjacent uses of the land. Because the majority of these proposed member housing sites are large in size, the conversion of a relatively small portion of the parcel to residential use is not expected to have a significant effect on the use of the land by the Nation for agriculture. Moreover, the Nation's past practices in developing land and commitment for future development, as embodied in its Land Use Ordinance, indicate that uses would be

developed in a manner that enhances the quality of life of residents and is harmonious and compatible with adjoining land uses.

Under circumstances whereby the Nation would retain ownership of Group 3 lands that are not conveyed into trust, either through paying property taxes on these lands or where foreclosure or alienation of these lands does not take place, proposed construction of Nation member housing on several sites located on Group 3 lands would also occur. As a result, the existing use of these sites would change.

In the event that the Nation were to lose Group 3 lands that are not conveyed into trust, the conversion of vacant or agricultural land to residential use would not occur, as the proposed sites for Nation member housing would remain in their present condition in the reasonably foreseeable future.

The construction of these residences, which is a planned action unrelated to the trust action, combined with proposed construction by others, is not anticipated to have a significant adverse cumulative effect on land use in the reasonably foreseeable future.

Alternative D. Approximately 2,578 acres, or 75 percent, of all Nation land to be placed in trust under this alternative experienced some change since being reacquired by the Nation beginning in 1987. Nearly one-half of the change in land use on Nation lands in Group 1 resulted from former vacant land being placed in active use for agriculture. This former vacant land included residential vacant land, rural vacant lots on less than and greater than 10 acres, abandoned agricultural land, and other rural vacant lands.

As discussed previously, since the Nation began reacquiring land in 1987 it has placed a considerable amount of land that was either vacant, inactive farmland or other land into active agricultural use. On lands in Group 1, it is estimated that the Nation placed nearly more than 900 acres of vacant farmland into active use for agricultural purposes, and converted an additional over 200 acres from rural residential use, some with agricultural, to agricultural use. At the same time, the Nation also converted about the same amount of active or former agricultural land in Group 1 to nonagricultural uses. The overwhelming majority of this change was associated with development of the Turning Stone Resort & Casino.

There are presently a limited number of Group 1 parcels where existing structures are pending demolition. Vacant residences are located on all of these parcels, and most include sheds and barns. The completion of this program by the fall of 2006 will have a direct and indirect beneficial effect on adjacent lands uses through improvement of the aesthetic environment and the character of the neighborhoods and communities where the parcels are located. A complete listing of the parcels is included in Appendix I.

It is anticipated that development proposed by others in the region, as listed previously, would take place. Additionally, the Nation is building a night club adjacent to the Turning Stone Resort & Casino.

Under circumstances whereby the Nation would retain ownership of Group 2 and 3 lands that are not conveyed into trust, either through paying property taxes on these lands or where foreclosure or alienation of these lands does not take place, the construction of Nation member housing on 15 sites located on Group 2 and 3 lands would be able to occur. As a result, the existing use of these sites would change with similar effects on adjacent land use. Specifically, the Nation's past practices in developing land and commitment for future development, as embodied in its Land Use Ordinance, indicate that uses would be developed in a manner that enhances the quality of life of residents and is harmonious and compatible with adjoining land uses.

In the event that the Nation were to lose Group 2 and 3 lands that are not conveyed into trust, the conversion of vacant or agricultural land to residential use would not occur, as the 15 proposed sites for Nation member housing would remain in their present condition in the reasonably foreseeable future.

The construction of these residences, which is a planned action unrelated to the trust action, combined with proposed construction by others, is not anticipated to have a significant adverse cumulative effect on land use in the reasonably foreseeable future.

Alternative E. The majority of land on which the Turning Stone Resort & Casino is located was a former dairy farm. The conversion of this farm to nonagricultural use has likely added to past actions by others in converting farmland in Oneida County to nonagricultural uses. The amount of land, at about 225 acres, is not considered to be significant in view of the more than 65,000 acres of farmland that became inactive and may have been converted to other uses during the period 1987-2002.

It is anticipated that development proposed by others in the region, as listed previously in the discussion under Alternative A, would take place. It is not likely that the Nation would propose any new development on the property given the uncertain future of the enterprise with the loss of most of the facilities associated with the Turning Stone Resort & Casino.

Under circumstances whereby the Nation would retain ownership of Group 2 and 3 lands that are not conveyed into trust, either through paying property taxes on these lands or where foreclosure or alienation of these lands does not take place, proposed construction of Nation member housing on 15 sites located on Group 2 and 3 lands might be able to occur. As a result, the existing use of these sites could change, as previously described under Alternative A.

In the event that the Nation were to lose Group 2 and 3 lands that would not be conveyed into trust under Alternative E, the conversion of vacant or agricultural land to residential use would not occur, as the 15 proposed sites for Nation member housing would remain in their present condition in the reasonably foreseeable future.

The construction of these residences, which is a planned action unrelated to the trust action, combined with proposed construction by others, is not anticipated to have a significant adverse cumulative effect on land use in the reasonably foreseeable future.

Alternative F. Past and present actions by the Nation and the resulting conditions under Alternative F are similar to the conditions identified under Alternative A. The nature and geographic extent of the changes and resulting effects, however, are different.

As discussed in the analysis of Alternative A, since the Nation began reacquiring land in 1987 it has placed a considerable amount of land that was either vacant, inactive farmland or other land into active agricultural use. On proposed trust lands under Alternative F, it is estimated that the Nation placed close to 4,500 acres of vacant land into active use for agricultural purposes, and converted an additional 970 acres from residential use, as reported by the Nation, to agricultural use.

The effects of development in the reasonably foreseeable future that were identified under Alternative A would be similar under Alternative F. Less member housing would be constructed in the future, as less land would be conveyed into trust under Alternative F, however, under a scenario whereby the Nation would lose land through foreclosure or alienation from nonpayment of property taxes on land that would not be conveyed into trust. Therefore, this alternative would have less of a cumulative effect on land use adjacent to Nation lands than Alternative A.

Alternative G. The closure of dairy farms, Griffiss Air Force Base, and closure of Oneida Limited manufacturing created hundreds of acres of inactive land in Oneida and Madison Counties. With the exception of some dairy farms on land reacquired by the Nation, the combined effect of past actions by others in the region has increased the amount of inactive and abandoned properties in the Study Area.

In the future, no potential changes in land use associated with the Nation's proposed improvements to and development of their land under existing plans and programs would occur. Conversely, the inability to maintain existing improvements would further add to the decline of the area. With the closure of the Turning Stone Resort & Casino, the proposed Verona Greens development is not likely to be constructed either in part or whole, as the services (lodging, food and retail) could not likely be supported without the Turning Stone Resort & Casino.

4.2.4.4 Summary of Land Use

Alternative A. There are no direct or indirect adverse effects on land use resulting from the Proposed Action (Alternative A). There are potential cumulative effects on land use under Alternative A in the reasonably foreseeable future from planned or on-going development at the Turning Stone Resort & Casino and construction of member housing both at the Village of the White Pines and at other Nation-owned properties. These cumulative effects would include a slight increase in traffic generation and, for member housing sites located outside of the Village of the White Pines, a change in the visual surroundings of the land and slightly more intense development. The magnitude of these effects is anticipated to be minor in view of the potential development and other proposed projects by private developers within the Study Area. Section 4.8.5 provides a detailed discussion of transportation effects, and Section 4.9.3 addresses visual effects.

In the long-term, it is possible that the Nation could establish uses on land conveyed into trust that may be incompatible with adjacent land uses. Based on the Nation's past activities and current use of its lands, however, it is anticipated that this would be limited both in magnitude and geographic extent. The overall effect is not expected to be significant.

Alternative B. As with Alternative A, there are no direct and indirect effects on land use under Alternative B. The cumulative effects of Alternative B, however, are anticipated to be more significant than under Alternative A by virtue of the additional amount of land that would be conveyed into trust under Alternative B.

Alternative C. Under Alternative C, some member housing would not be able to be constructed under existing plans and programs unrelated to the trust action on land that would not be conveyed into trust (under **Property Taxes Paid** or **Property Taxes Not Paid – Dispute Continues**), and under the (**Property Taxes Not Paid – Foreclosure**) scenario, the Nation's use of agricultural lands in Group 3 would cease, and existing structures and properties in Group 3 would deteriorate. This would have an indirect, adverse effect on adjacent land use where Nation lands remain inactive and structures deteriorate and where agricultural lands are redeveloped for nonagricultural uses. A potential indirect beneficial effect on land uses that are adjacent to undeveloped lands in Group 3, which would not be conveyed into trust, could occur in the future whereby these lands would be subject to local zoning and other regulations (under the **Property Taxes Paid** scenario), as the lands would need to be used in a manner consistent with local zoning and land use policy. However, based on the Nation's policies to develop lands in a manner that is harmonious and compatible with adjoining land uses, the beneficial effect of local control is not anticipated to be significant.

Alternative D. As a consequence of Alternative D and the **Property Taxes Not Paid – Foreclosure** scenario, member housing would not be constructed as lands where this

housing could be located would not be conveyed into trust. Therefore, the Nation's use of agricultural lands in Groups 2 and 3 would cease, and existing properties and structures in Groups 2 and 3 would deteriorate. This would have an indirect, adverse effect on adjacent land use where Nation lands remain inactive and structures deteriorate and where agricultural lands are redeveloped for nonagricultural uses. A potential indirect beneficial effect on land uses that are adjacent to undeveloped lands in Groups 2 and 3, which would not be conveyed into trust, could occur in the future whereby these lands would be subject to local zoning and other regulations (under the **Property Taxes Paid** scenario), as the lands would need to be used in a manner consistent with local zoning and land use policy. However, based on the Nation's policies to use and develop lands in a manner that is harmonious and compatible with adjoining land uses, the beneficial effect of local control is not anticipated to be significant.

Alternative E. As a consequence of Alternative E and the **Property Taxes Not Paid – Foreclosure** scenario, no member housing would be constructed, as lands would not be available for such purposes. Therefore, the Nation's use of most lands in Groups 1, 2 and 3 would cease, and existing properties in Groups 1, 2 and 3 would deteriorate. This would have an indirect, adverse effect on adjacent land use where Nation lands remain inactive and structures deteriorate and where agricultural lands are redeveloped for nonagricultural uses. A potential indirect beneficial effect on land uses that are adjacent to undeveloped lands in Groups 1, 2 and 3 which would not be conveyed into trust could occur in the future, whereby these lands would be subject to local zoning and other regulations (under **Property Taxes Paid** scenario), as the lands would be developed in a manner that is consistent with local zoning and land use plans. However, based on the Nation's policies to develop lands in a manner that is harmonious and compatible with adjoining land uses, the beneficial effect of local control is not anticipated to be significant.

The effect on land use from implementation of this alternative would be significant. Thousands of acres of Nation land that are now productive and actively used for the benefit of Nation members and the community could become unproductive in the reasonably foreseeable future. Moreover, the lack of maintenance and declining condition of these lands would have an adverse effect on adjacent land uses, neighborhood and community character and visual resources.

Alternative F. As a consequence of Alternative F, some member housing would not be constructed on lands that would not be conveyed into trust (under the **Property Taxes Paid** scenario), and under the **Property Taxes Not Paid – Foreclosure** scenario the Nation's use of agricultural lands on Group 3 lands in Stockbridge would cease and existing properties in Group 2 and 3 that are not conveyed into trust would deteriorate. This would have an indirect, adverse effect on adjacent land use where Nation lands remain inactive and structures deteriorate and where agricultural lands are redeveloped for nonagricultural uses. A potential indirect beneficial effect on land uses that are adjacent to

undeveloped lands in Groups 2 and 3 that would not be conveyed into trust could occur in the future, whereby these lands would be subject to local zoning and other regulations (under the **Property Taxes Paid** scenario), as the lands would need to be used in a manner consistent with local zoning and land use policy. However, based on the Nation's policies to develop lands in a manner that is harmonious and compatible with adjoining land uses, the beneficial effect of local control is not anticipated to be significant.

Alternative G. The effect on land use from implementation of this alternative would be significant. Thousands of acres of Nation land that are now actively used for the benefit of Nation members and the community would become unproductive (under the **Property Taxes Not Paid – Foreclosure** and **Casino Closes and All Enterprises Close** scenarios) in the reasonably foreseeable future. The lack of maintenance and declining condition of these lands would have an adverse effect on adjacent land uses, neighborhood and community character. Furthermore, existing land uses, such as local restaurants, gas stations, retail businesses and lodging that depend on tourism related to the Turning Stone Resort & Casino and other Nation enterprises may cease. Proposed developments and changes in land use would not likely occur in the reasonably foreseeable future as a result.

Summary

Under Alternative A, Proposed Action, conveyance of all Nation lands into trust would have the greatest beneficial effect on the use of existing land by the Nation, as all of its land and existing improvements thereon would continue. These uses would continue in an environment whereby the Nation itself would determine the type of uses allowed on its lands and where those uses would occur, subject to Nation laws and federal law. As a result, the Nation would be able to pursue its existing plans and programs to expand the amenities (gaming floor, night club and spa) at the Turning Stone Resort & Casino and to construct in the reasonably foreseeable future additional housing on Group 2 and 3 lands to meet the needs of its members. Similar effects would result from implementation of Alternative B, except that the land area to be used and regulated by the Nation to the benefit of the Nation would be considerably greater than under Alternative A.

Alternative B would also have the greatest cumulative effect on Nation use of the land by allowing the Nation to reacquire land that contains archaeological and cultural sites that were once actively used by the Nation but from which the Nation was alienated.

Existing land uses on most Nation lands to be conveyed into trust are primarily compatible with adjacent uses on non-Nation lands. Where uses such as the multifamily dwellings at the Village of the White Pines and structures such as The Tower at the Turning Stone Resort & Casino do not conform to local community zoning, it does not appear that this has had an adverse effect on adjacent land uses or resulted in development of other incompatible land uses.

Alternatives C through F would convey varying amounts of land into trust; the Nation's use of the land and the effects on adjacent non-Nation land uses would vary with the

alternative. With regard to lands not conveyed into trust, Alternative E would have the greatest adverse effect of these alternatives on the Nation and potentially non-Nation land use from deterioration of Nation lands that would not be conveyed into trust. Alternative F would have a more limited adverse effect on the Nation of those alternatives where all land is not conveyed into trust but the greatest effect on local communities. Alternatives C and D fall in between these two alternatives, with D being closer to E, and C being closer to F. With regard to lands conveyed into trust under these alternatives, Alternative F would have the most beneficial effect on the Nation's use of its land and the most potentially adverse effect on the adjacent non-Nation land uses. Alternative E would have the most adverse effect on the Nation's use of its land and the most potentially beneficial effect on adjacent non-Nation land uses.

The effects on land use would also depend on whether or not the Nation retains ownership of land not conveyed into trust and under what circumstances. In a scenario whereby the Nation would pay property taxes on the land not conveyed into trust and the use of that land would be subject to local land use plans, zoning and other regulations of the community in which the land is located, the direct result would be that some Nation lands would become nonconforming and subject to challenge. As an indirect effect, the Nation's existing uses on those lands would likely be prohibited from expansion in the future. This would likely have an adverse effect on the Nation in its ability to meet its needs and the needs of its members through the use of its land.

A more significant direct effect on Nation use of its land under Alternatives C through F would occur in a scenario whereby the Nation would not pay property taxes on the lands not conveyed into trust and foreclosure or alienation of this land from the Nation would result. The existing use would therefore cease, resulting in an increase in inactive land in the Study Area containing improvements that would deteriorate over time from lack of maintenance. While the land would be subject to community comprehensive and master plans, zoning and other local land use regulations, adjacent land uses may be indirectly, adversely effected by deteriorating structures and grounds on those lands.

The No Action alternative would have a significant adverse effect on the Nation's use of its land, as all land that may be retained by the Nation in the future would be subject to local planning, zoning and other land use regulations, thereby rendering a number of uses as nonconforming and precluding future expansion of those uses. The nature and location of uses by the Nation of its land would also be restricted by zoning and other local land use regulations. This would limit the Nation's ability to use the land in a manner that best meets its needs and goals. A more significant effect on the use of land by the Nation and on adjacent non-Nation land uses would likely occur under a scenario whereby the casino closes. Under this scenario, most, if not all, Nation land becomes inactive and the land improvements thereon would deteriorate over time.