

# Cayuga Indian Nation of New York

## environmental impact statement

### Scoping Report

## Conveyance of Lands into Trust

CAYUGA and SENECA COUNTIES, NEW YORK

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## **SECTION 1: INTRODUCTION**

### **A. OVERVIEW**

The Cayuga Indian Nation of New York (the “Nation”) has applied to the Bureau of Indian Affairs (“BIA”) for a fee-to-trust transfer of 125± acres<sup>1</sup> of land owned by the Nation (the “Proposed Action”). The property proposed for fee-to-trust transfer is comprised of seven separate parcels (nine tax map I.D. numbers) located in the Village of Union Springs and the Towns of Springport and Montezuma, in Cayuga County, and the Town of Seneca Falls, in Seneca County, New York. The purpose of the Proposed Action is to address the Nation’s need for cultural and social preservation, political self-determination, self-sufficiency, and economic growth as a federally recognized Indian tribe.

The BIA is required to review the proposed fee-to-trust transfer under the National Environmental Policy Act of 1969, as amended (42 USC 4321 et seq.) (“NEPA”). Under NEPA, the BIA is the lead agency for the evaluation of the Proposed Action and alternatives consistent with Council on Environmental Quality (“CEQ”) regulations (40 CFR 1500-1508).

NEPA provides an interdisciplinary framework to ensure that federal agency decision-makers consider environmental factors. NEPA requires an evaluation of potential environmental impacts of any major federal action that may significantly affect the quality of the environment. In the case of the Proposed Action, an environmental impact statement (EIS) will be prepared. Public involvement, which is an important aspect of the NEPA procedures, is provided for at various steps in the development of an EIS. The first opportunity for public involvement is the EIS scoping process, as discussed below.

The United States Department of Interior (“USDO”) has determined that certain groups of actions would have no significant individual or cumulative effect on the quality of the human environment and, in the absence of extraordinary circumstances, do not require an environmental assessment or EIS under NEPA. Such groups of actions, defined as “Categorical Exclusions,” include fee-to-trust transfers where no extraordinary circumstances exist and no development, physical alteration, or change of land use after acquisition is known or planned. Notwithstanding the potential applicability of the Categorical Exclusion to the Proposed Action, an EIS will be prepared to ensure that all potential environmental consequences which could result from the Proposed Action are thoroughly analyzed, assessed, and evaluated.

This Scoping Report briefly describes the EIS scoping process, explains the purpose and need for the Proposed Action, describes the Proposed Action, alternatives to the Proposed Action, and summarizes the issues identified during the public scoping process.

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<sup>1</sup> The notice of intent published in the Federal Register on February 13, 2006 (71 FR 7568) cited the conveyance into federal trust of seven parcels comprising 125± acres of land. The records of the affected municipalities report the actual acreage of the seven parcels included in the Nation’s Land Trust Application to be 129.16 acres.

## **B. BACKGROUND AND HISTORY**

Prior to the arrival of Europeans, the Nation commanded a major presence over a large part of the present-day central New York, extending north into Canada and south into Pennsylvania. The Nation had developed a sophisticated civilization with numerous towns and villages, centered around present day Cayuga Lake in central New York. This well-defined Cayuga territory incorporated in excess of three million acres of land. This territory, which encompasses the land owned by the Nation subject to the Proposed Action, is part of 64,015 acres guaranteed to the Cayuga Indian Nation as reservation land under the Treaty of Canandaigua in 1794, a treaty with the United States government and signed by President George Washington. The Cayuga's reservation has never been disestablished by Congress.

The present Cayuga Nation has its headquarters in North Collins, New York. The Nation consists of members who are the direct descendents of those whose land was lost to the State of New York in 1795 and 1807. The Nation intends to reestablish tribal presence in their homeland around Cayuga Lake, which holds for them cultural and religious significance.

The transfer into federal trust of the Nation's Cayuga and Seneca County properties would provide cultural resource protections and enable the Nation to govern their lands as a sovereign Indian Nation. The transfer of land into Federal trust under 25 USC 465 and 25 CFR 151 is an appropriate and accepted means of furthering the federal government's policy to support and protect federally recognized Indian nations. The properties subject to the Proposed Action were purchased by the Nation at fair market value from willing sellers. These lands were not taken by condemnation or given to them by the government, and the proposed fee-to-trust process is separate and distinct from any Nation land claims.

## **C. THE NEPA EIS DOCUMENT AND SCOPING PROCESS**

The tentative table of contents of the EIS document is shown below, in Table 1, and is presented in this Scoping Report to illustrate the anticipated layout of the document. This table of contents is offered to assist readers understand where subjects of interest will be located within the document.

The first substantive part of the EIS is Section 1.0, "Purpose and Need," which contains a discussion of the reasons for the Proposed Action. As discussed in further detail below, the Proposed Action and alternatives to it will be discussed in the EIS under Section 2.0, "Alternatives." The following section, Section 3.0, "Affected Environment," will describe the aspects of the environment that may be affected by the Proposed Action and the alternatives.

Section 4.0, "Environmental Consequences," will identify and assess the potential effects that the Proposed Action and the alternatives may have on each of the topics discussed in Section 3.0. Adverse effects that cannot be avoided will be identified. The evaluation of potential impacts will also project and reflect relevant changes and trends likely to occur between the time of analysis (2006) and the future instance when a preferred action is implemented. Section 5.0 of the EIS, "Mitigation," will include a discussion of feasible measures that can be implemented to minimize or mitigate significant adverse impacts.

**Table 1**  
**Tentative EIS Table of Contents**

Section #	Title of Section
	EXECUTIVE SUMMARY
1.0	PURPOSE AND NEED
2.0	ALTERNATIVES
3.0	AFFECTED ENVIRONMENT
3.1	Land Resources
	<i>Topography</i>
	<i>Soils</i>
	<i>Geologic Setting, etc.</i>
3.2	Water Resources
3.3	Air Quality
3.4	Hazardous Materials
3.5	Noise
3.6	Living Resources
	<i>Wildlife, Vegetation, Ecosystems and Biological Communities</i>
3.7	Cultural Resources
	<i>Historic, Cultural, and Religious</i>
	<i>Archaeological Resources</i>
3.8	Socioeconomic Conditions
	<i>Employment and Income</i>
	<i>Demographic Trends</i>
	<i>Lifestyle and Cultural Values</i>
	<i>Environmental Justice</i>
3.9	Community Infrastructure
	<i>Utilities</i>
3.10	Community Services
	<i>Public Health and Safety (emergency services)</i>
	<i>Schools and Libraries</i>
	<i>Fiscal Impact</i>
3.11	Resource Use Patterns
	<i>Agriculture</i>
	<i>Recreation</i>
	<i>Land Use Plans</i>
3.12	Traffic and Transportation
3.13	Visual Resources
4.0	ENVIRONMENTAL CONSEQUENCES (with subsections, as above)
5.0	MITIGATION (with subsections, as above)

The “scope” of an EIS refers to the range of environmental issues to be addressed, the types of project effects to be considered, and project alternatives to be analyzed. The EIS scoping process is designed to provide an opportunity for the public and other agencies to provide input

regarding the scope of the EIS, and to focus the EIS on the issues that are the most relevant for the lead agency to consider in making its decision.

## **PUBLIC NOTICES**

The first formal step in the preparation of an EIS is publication in the Federal Register of a Notice of Intent (“NOI”) to prepare an EIS. The NOI describes the Proposed Action and the reasons why an EIS will be prepared. The BIA published the NOI for this Proposed Action in the Federal Register on February 13, 2006 (71 FR 7568). The NOI established a public comment period beginning on February 13, 2006 and ending on March 15, 2006, and is attached as Appendix A.

In addition to publication in the Federal Register, the NOI was published in two newspapers having a local circulation. The publication occurred on February 12, 2006 in *The Citizen* and *The Finger Lakes Times*. Copies of these local notices are also exhibited in Appendix A.

## **PUBLIC SCOPING MEETING**

The February 12 and February 13, 2006 notices also announced a public scoping meeting. The BIA conducted the public scoping meeting on March 1, 2006, at the New York Chiropractic College, in Seneca Falls, Seneca County, New York. The meeting was scheduled to begin at 6:30 p.m., and end at 9:30 p.m., or when the last public comment was received. The meeting ended at approximately 9:00 p.m., at which time no further oral comments were offered.

The Chiropractic College was selected as a convenient and easy to find location with ample parking. The gymnasium of the College was selected as the meeting room, and bleachers and folding chairs were set up to accommodate approximately 800 people. Additional bleacher sections were available for deployment to accommodate additional attendees if needed.

The Scoping Meeting was attended by approximately 500 people. The scoping meeting was conducted by the following representatives of the BIA: Kurt Chandler, Regional Environmental Scientist; Thomas A. Blaser, Esq. DOI Attorney; and Leroy Clifford, Environmental Protection Specialist. The scoping meeting included presentations by the BIA and AKRF, Inc., the third party consultant to the BIA, outlining the Proposed Action and the scoping and EIS processes.

Following presentations by the BIA, and AKRF, the public was invited to provide comments on the scope of the EIS. All members of the public were afforded the opportunity to sign-in on a speakers’ sign-in sheet at the entrance of the meeting room; the sign-in sheet was available throughout the meeting period. Speakers were called to a microphone to provide comments in the order in which they signed-in. Each presenter was asked to state their name, and provide to the stenographer a copy of any written materials supporting their comments. The stenographer recorded the comments offered by each presenter. The full transcript of the scoping meeting is provided in Appendix B. The transcript includes copies of written comments when such were provided to the stenographer by individuals who made oral comments.

In addition to receiving oral comments from the public, attendees were provided with comment cards on which to provide written comments. The comment cards also offered information about providing further written comments on the scope of the EIS; the address to send any further comments and the deadline were clearly indicated. Written comments were accepted for a two week period following the public Scoping Meeting, with the comment period closing on March

15, 2006. All written comment letters and comment cards that were received by that date are included in Appendix C of this Scoping Report.

In general, the majority of the public comments were in opposition to the Proposed Action. Many comments, however, focused on the Nation's land claim, rather than on the scope of the EIS for the Proposed Action. The issues raised during the public scoping meeting are summarized herein in Section 3.2 of this Scoping Report.

#### **D. COOPERATING AGENCIES**

NEPA regulations define a cooperating agency as "any federal agency other than the lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal" that is being analyzed in an EIS (40 CFR 1508.5). "Special expertise" means statutory responsibility, agency mission, or related program experience. A similarly qualified state or local agency or an affected Indian tribe may also request to become a cooperating agency.

Cayuga County, Seneca County, the New York State Department of Environmental Conservation (NYSDEC), and the Cayuga Nation of New York requested designation as cooperating agencies. Representatives of the BIA, AKRF, and the potential cooperating agencies, discussed the designation of cooperating agencies at a meeting held on March 1, 2006. A draft Memorandum of Understanding (MOU) was distributed at the meeting that identified these agencies as cooperating agencies based on their special expertise and set forth their responsibilities and obligations with respect to their participation in the EIS process.

The BIA received comments of the draft MOU from Cayuga and Seneca Counties. The BIA distributed a revised MOU on October 10, 2006.

As of the date of this Scoping Report, Cayuga County, New York, Seneca County, New York, and the Cayuga Indian Nation have executed the MOU. The BIA has not received an executed copy of the MOU from the NYSDEC, and therefore they have not yet been designated as a cooperating agency.

## **SECTION 2: PROPOSED PROJECT AND ALTERNATIVES**

### **A. PURPOSE AND NEED**

The Proposed Action is the fee-to-trust transfer of approximately 125± acres of land owned by the Nation. The Nation wishes to continue use of its properties for multiple purposes, involving the continuation of previous and existing uses. Existing and previous uses include convenience store and gas station operations, gaming facilities, a car wash and related activities. The Nation presently has no plans for further development of the subject properties.

Transfer of lands into trust would convey title to the subject properties to BIA. If the Nation's fee-to-trust application is approved by BIA, the subject properties will be held by BIA in trust for the Nation to ensure the cultural preservation, expression and identity, self determination, self-sufficiency, and economic independence of the Nation as a federally recognized Indian tribe.

### **B. PROJECT LOCATION**

The subject properties comprise approximately 125± acres, and consist of seven separate parcels in the Village of Union Springs and the Towns of Springport and Montezuma in Cayuga County, and the Town of Seneca Falls in Seneca County, New York. Figure 2-1 shows the regional location and Figure 2-2 shows the vicinity of the subject properties.<sup>1</sup>

### **C. ALTERNATIVES TO BE ANALYZED WITHIN THE EIS**

The BIA will consider three alternatives to be reviewed in the EIS. These include:

- The Proposed Action
- No Action
- Contiguous Parcels into Trust

These alternatives are discussed below.

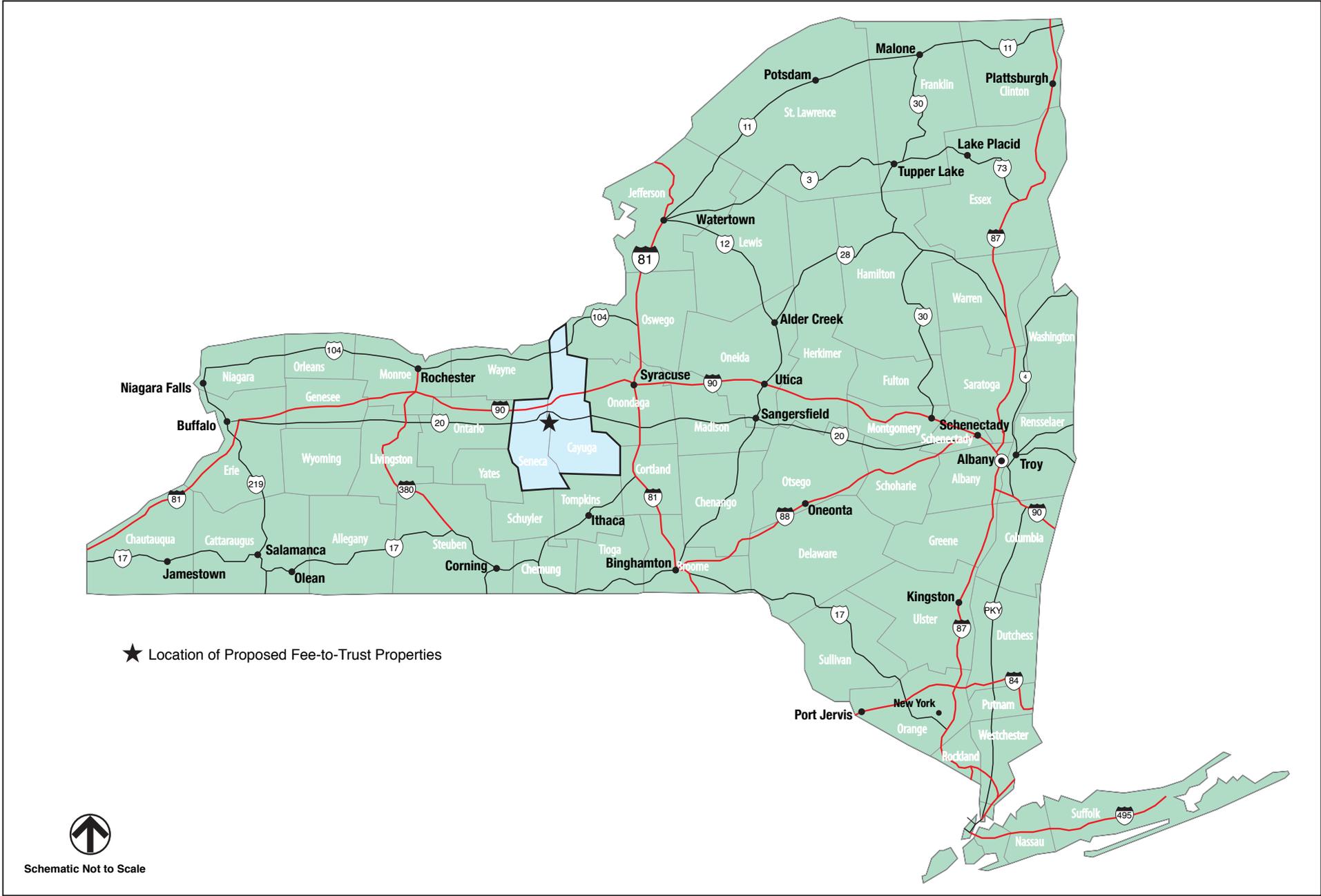
#### **ALTERNATIVE 1: PROPOSED ACTION**

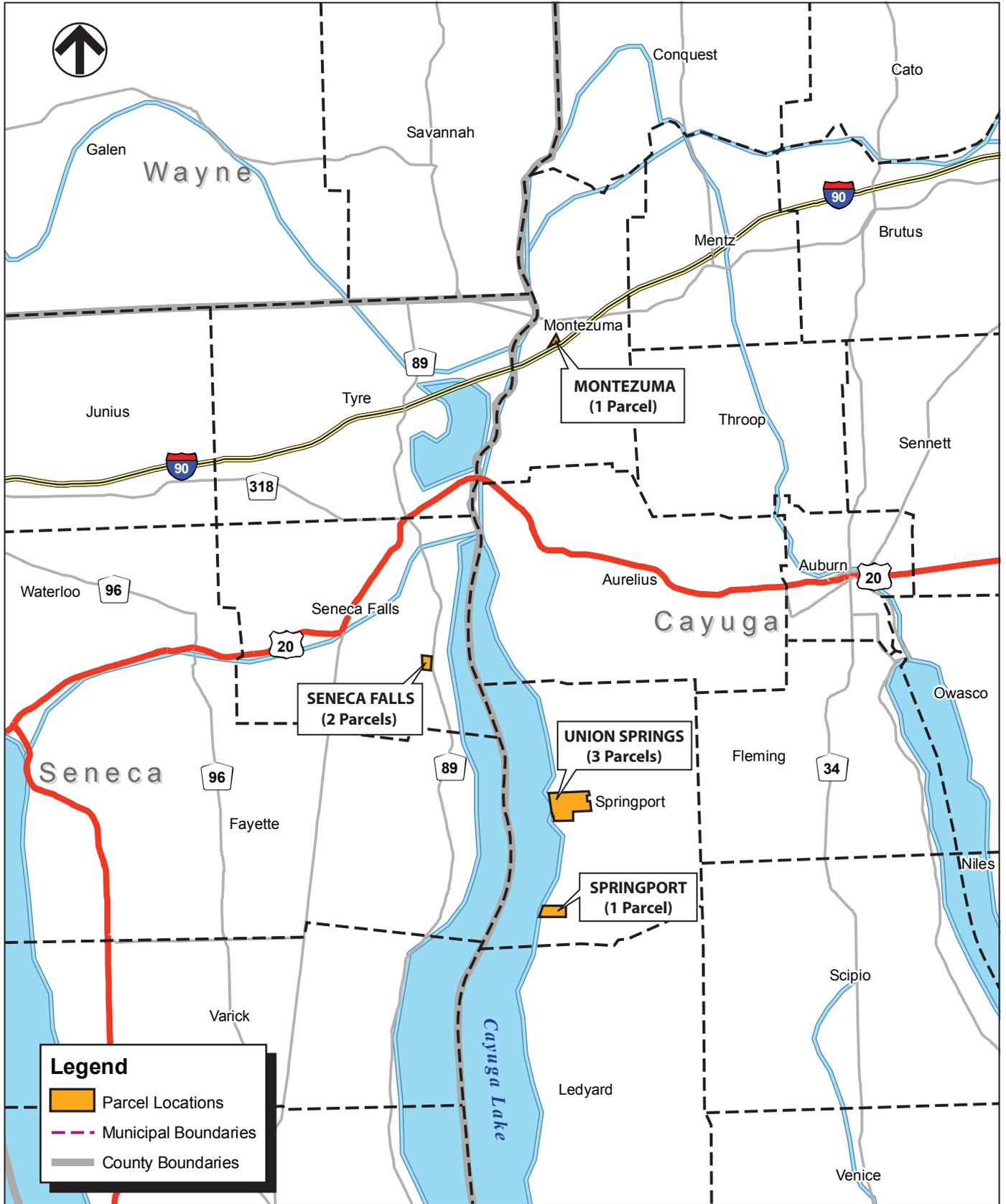
Under this alternative, the seven parcels of land included in the Nation's Land Trust Application would be taken and held into trust by the Bureau of Indian Affairs (BIA) These parcels are located in the Village of Union Springs and the Towns of Springport and Montezuma, in Cayuga County, and in the Town of Seneca Falls, in Seneca County, New York. The subject properties are shown in Table 2.

The Nation would continue use of its properties for multiple purposes, involving the continuation of previous and existing uses, including convenience store and gas station

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<sup>1</sup> As noted above, the notice of intent published in the Federal Register on February 13, 2006 (71 FR 7568) cited the conveyance into federal trust of seven parcels comprising 125± acres of land. The records of the affected municipalities report the actual acreage of the seven parcels included in the Nation's Land Trust Application to be 129.16 acres.





operations, gaming facilities, a car wash and related activities. The Nation presently has no plans for further development of the subject properties.

As trust land, the Nation’s property would not be subject to local or county taxation, it would be restricted against alienation, and the Nation would assert tribal sovereignty over the subject properties (civil and criminal jurisdiction is dependent on USC 232, 233; and Federal laws will still apply).

This is the Proposed Action as reflected in the fee-to-trust application.

**Table 2**  
**Proposed Action – Seven Parcels into Trust per Land Trust Application**

County/ Municipality	Parcel Address	Parcel Deed Reference	Tax Lot Designations of Parcel	Approx. Acreage	Use
<b>Seneca County</b>					
Town of Seneca Falls	3149 Garden Street Extension/Rt. 89	Book 702 at page 66	36-1-48.1 36-1-48.2	13.29	Former campground and boat repair shop; Nation’s office use
	2552 Route 89	Book 674 at page 63	36-1-49	0.69	Gas station, convenience store, and gaming facility
<b>Cayuga County</b>					
Village of Union Springs	North Cayuga Street	Book 1208 at page 236	134.17-1-1.51	108.0	Vacant lot
	299 and 303 Cayuga Street	Book 1129 at page 222	134.17-1-1.21 134.17-1-1.121	1.98	Gas station, car wash, convenience store
	271 Cayuga Street	Book 1129 at page 225	141.05-1-3	1.48	Gaming facility
Town of Springport	Route 90	Book 1215 at page 291	150.00-1-29.1	3.70	Vacant lot
Town of Montezuma	High Street	Book 1215 at page 293	85.00-1-28.1	0.018	Vacant lot
<b>Note:</b> The notice of intent published in the Federal Register on February 13, 2006 (71 FR 7568) cited the conveyance into federal trust of seven parcels comprising 125± acres of land. The records of the affected municipalities as shown in this table report the actual acreage of the seven parcels included in the Nation’s Land Trust Application to be 129.16 acres.					

**ALTERNATIVE 2: NO ACTION**

Under this alternative, analysis of which is required under NEPA, the BIA would take no action, and the Nation’s properties would not be taken into trust by the BIA.

Under this alternative, the Nation would continue use of its properties for multiple purposes, including the continuation of existing uses (e.g., convenience store and gas station operations, a car wash, and related activities).

**ALTERNATIVE 3: CONTIGUOUS PARCELS INTO TRUST**

Under this alternative, the five parcels of land included in the Nation’s Land Trust Application that are contiguous would be taken and held into trust by the BIA. As shown in Table 3, two such contiguous parcels are located in Seneca Falls, Seneca County, and three contiguous parcels are located in Union Springs, Cayuga County. Under this alternative, the Nation’s LakeSide Trading commercial enterprises would continue to operate, and the Nation’s LakeSide Entertainment Class II gaming facilities would resume full operation.

Under this alternative, the Nation’s non-contiguous parcels in the Towns of Montezuma and Springport, in Cayuga County, would not be taken into federal trust.

The analysis of Alternative 3 will document the potential environmental impacts of placing the parcels listed in Table 3 into trust. On the remaining non-contiguous parcels, the Nation would continue existing uses.

**Table 3**  
**Alternative 3 – Contiguous Parcels into Trust**

<b>County/ Municipality</b>	<b>Parcel Address</b>	<b>Parcel Deed Reference</b>	<b>Tax Lot Designations of Parcel</b>	<b>Approx. Acreage</b>	<b>Use</b>
<b>Contiguous Parcels in Seneca County</b>					
Town of Seneca Falls	3149 Garden Street Extension/Rt. 89	Book 702 at page 66	36-1-48.1 36-1-48.2	13.29	Former campground and boat repair shop; Nation’s office use
	2552 Route 89	Book 674 at page 63	36-1-49	0.69	Gas station, convenience store, and gaming facility
<b>Contiguous Parcels in Cayuga County</b>					
Village of Union Springs	North Cayuga Street	Book 1208 at page 236	134.17-1-1.51	108.0	Vacant lot
	299 and 303 Cayuga Street	Book 1129 at page 222	134.17-1-1.21 134.17-1-1.121	1.98	Gas station, car wash, convenience store
	271 Cayuga Street	Book 1129 at page 225	141.05-1-3	1.48	Gaming facility

## **SECTION 3: ISSUES IDENTIFIED DURING SCOPING**

### **A. INTRODUCTION**

This section of the Scoping Report summarizes public comments received during the scoping process, including oral and written testimony received at the scoping meeting, as well as written comments submitted to BIA during the public comment period following the public meeting.

The following summaries reflect comments made by one or more person, organization or agency. The issues are categorized as either relevant to or beyond the scope of this analysis. Further, issues often raised during NEPA EIS scoping that were not raised in this instance are so noted. Citing an issue as “relevant” denotes that the EIS will discuss the existing conditions, referred to under NEPA as the Affected Environment.

### **B. RELEVANT ISSUES IDENTIFIED DURING SCOPING**

The issues identified during the scoping process that will be addressed in the EIS are listed below. To aid in locating the discussion regarding these issues in the EIS, the issues are numbered according to the EIS section in which the issue or topic would be addressed. Please refer to Table 1 for the tentative table of contents of the EIS document.

#### **2.0 ALTERNATIVES**

The public commented that the EIS should analyze alternatives, including the no-action alternative, and an alternative which analyzes the placement of Contiguous Parcels into Trust that would constitute a smaller-scale version of the Proposed Action.

##### *SCOPE:*

The alternatives proposed for analysis in the EIS are identified and described above. These Alternatives include the Proposed Action; No Action; and placing Contiguous Parcels into Trust.

This discussion will be found in the EIS under Section 2.0, “Alternatives.” In addition, the potential effects of the alternatives on the environment will be discussed in the applicable subsections of Section 4.0, “Environmental Consequences,” as outlined below.

#### **3.0 AFFECTED ENVIRONMENT**

The following section summarizes public comments pertaining to the existing environmental conditions that may be affected by the Proposed Action and the alternatives. Section 3 of the EIS, “Affected Environment,” will include a discussion of the existing conditions of each of the following environmental resource topics (e.g., Land Resources, Water Resources, etc.). Section 4 will contain the evaluation of how these resources may be affected by the Proposed Action and the alternatives.

##### **3.1 LAND RESOURCES**

The public commented that the EIS should evaluate potential impacts of current operations on soils.

*SCOPE:*

Section 3.1 of the EIS will include a description of the geological and soil conditions and topographic features of the subject properties. Section 4.1 will address potential impacts resulting from the Proposed Action and the alternatives on these resources. Means of mitigating adverse impacts, if any, will be discussed in Section 5.1 of the EIS.

### **3.2 WATER RESOURCES**

The public commented that the EIS should evaluate potential impacts of current operations at the subject properties on groundwater, wetlands, and surface water, including potential impacts to drinking water and to the surface waters, including the Cayuga Lake Drainage Basin.

*SCOPE:*

The EIS, under Section 3.2, "Water Resources," will identify and describe potentially affected drainage patterns, surface waters, and streams. Waters and wetlands, including Cayuga Lake and the Cayuga Lake Drainage Basin, will be identified and evaluated. Section 4.2 of the EIS will identify and address any potential adverse effects to these resources. Means of mitigating adverse impacts, if any, will be discussed in Section 5.2.

### **3.3 AIR QUALITY**

The public commented that the EIS should evaluate potential impacts of current operations on air quality.

*SCOPE:*

The existing ambient air quality conditions within the potential impact area based on data obtained from NYSDEC will be described in Section 3.3 of the EIS. If necessary, the EIS will evaluate critical receptor locations for potential microscale analyses of any identified pollutants of concern. Means of mitigating adverse impacts, if any, that are identified in Section 4.3 will be discussed in Section 5.3.

### **3.4 HAZARDOUS MATERIALS**

The public commented that existing contamination of soils, groundwater, and/or surface waters should be identified, as well as any potential for vapor intrusion. Comment was also made that potential impacts from pesticide use should be evaluated.

*SCOPE:*

Phase I Environmental Site Assessments have been conducted on each of the subject parcels. Section 3.4 of the EIS will summarize the Phase I reports and any possible environmental contamination. Any adverse impacts will be identified in Section 4.4, and mitigation will be discussed in Section 5.4.

### **3.5 NOISE**

The public commented that potential noise impacts associated with current operations should be assessed and evaluated.

*SCOPE:*

Section 3.5 of the EIS will identify any potential noise impacts in the project vicinity. Section 4.5 of the EIS will discuss adverse impacts on nearby sensitive land uses as a result of the Proposed Action and the alternatives. Feasible measures to mitigate adverse impacts, if any, will be discussed in Section 5.5.

### **3.6 LIVING RESOURCES**

The public commented that the potential impacts to threatened and endangered species should be evaluated.

*SCOPE:*

Section 3.6 of the EIS will identify and describe the extent and types of vegetation, animal species, including known occurrences of threatened or endangered species, and/or habitat on the subject properties. The New York Natural Heritage Program and the U.S. Fish and Wildlife Service will be consulted in respect to species of concern. The Proposed Action and the alternatives' potential for adverse impacts on these resources will be assessed and discussed under Section 4.6, and measures of mitigating adverse impacts, if any, will be discussed in Section 5.6.

### **3.7 CULTURAL RESOURCES**

The public commented that the EIS should analyze potential impacts of current operations on cultural resources and aesthetically significant areas, including Cayuga State Park.

*SCOPE:*

Section 3.7 of the EIS will identify known historic resources, including prehistoric or historic archaeological resources known to exist on the subject properties. The Proposed Action and the alternatives' potential to have adverse impacts on known prehistoric and historic archaeological resources will be assessed and discussed under Section 4.7 of the EIS.

In consultation with the State Historic Preservation Office (SHPO) and appropriate local authorities, historic sites and/or districts on the subject property which might be eligible for listing on the State and/or National Registers of Historic Places, or locally designated as landmarks, will be identified and described. Known historic resources (e.g., sites on or eligible for listing on the State and/or National Registers of Historic Places, or locally designated as landmarks) in the surrounding area will also be identified and described. The Proposed Action and the alternatives' potential for adverse impacts on these resources will be assessed in Section 4.7 of the EIS, and feasible measures for mitigating adverse impacts, if any, will be discussed in Section 5.7.

### **3.8 SOCIOECONOMIC CONDITIONS**

*EMPLOYMENT AND INCOME*

The public commented that the existing operations provide meaningful employment to area residents.

*SCOPE:*

Section 3.8 of the EIS will describe the employment provided by Cayuga Nation enterprises, and will discuss this employment in the context of the employment base and labor pool of the study area as defined by average drive-to-work data reported by the U.S. Census. Section 4.8 of the EIS will evaluate the effects on the employment base of the Proposed Action and the alternatives, including potential impacts resulting from displacement. In addition, Section 4.8 of the EIS will analyze indirect economic impacts, including the effects of employee and visitor spending, as well as vendor purchases.

*DEMOGRAPHIC TRENDS*

The public commented that past, current and expected demographic trends of both Nation and non-Nation communities should be identified and assessed.

*SCOPE:*

Section 3.8 of the EIS will include a description of the socioeconomic characteristics of the Nation, and Section 4.8 will discuss how the Nation will be affected by the Proposed Action and the alternatives.

The EIS, under Section 3.8, will present a demographic profile of the Village of Union Springs, the Town of Springport and the Town of Montezuma in Cayuga County, as well as the Town of Seneca Falls in Seneca County. This will include a description of existing population, housing, household characteristics, and income. The geographic area from which the employees for the Nation's operations would likely come will be identified based on labor pool and population characteristics.

*LIFESTYLE AND CULTURAL VALUES*

The public commented that the EIS should discuss potential impacts associated with current operations on local residents, as well as benefits associated with activities provided by current operations.

*SCOPE:*

Section 3.8 of the EIS will describe the cultural values and objectives of the Nation, and Section 4.8 will discuss how these factors will be affected by the Proposed Action and the alternatives.

Based on U.S. Census socioeconomic and demographic data, Section 4.8 of the EIS will also identify the potential impacts on the lifestyles culture of area residents resulting from Nation operations in Cayuga and Seneca Counties.

*ENVIRONMENTAL JUSTICE*

Section 3.8 of the EIS will evaluate whether any environmental impacts of Proposed Action or its alternatives would disproportionately affect low-income or minority populations, including the Cayuga Nation.

**3.9 COMMUNITY INFRASTRUCTURE**

The public commented that the EIS should evaluate the impacts on public infrastructure, such as wastewater and drinking water facilities.

*SCOPE:*

Section 3.9 of the EIS will describe existing onsite infrastructure and affected municipal infrastructure including wastewater and drinking water facilities. Section 4.9 of the EIS will discuss how these infrastructure systems would be affected by the proposed project and the alternatives. Feasible measures to mitigating adverse impacts, if any, on community infrastructure will be discussed in Section 5.9.

**3.10 COMMUNITY SERVICES**

The public commented that the EIS should evaluate the impacts on local services, including police, fire and other public services that benefit from property tax revenue.

*SCOPE:*

Section 3.10 of the EIS will describe relevant municipal services that are currently provided to the Nation's properties. Potential impacts on these services resulting from the Proposed Action and the alternatives will be identified and discussed under Section 4.10. Public services included in the assessment will include police, fire, emergency services, public health, schools, and libraries. Related to assessment will be discussion of potential fiscal effects on the local municipalities that may result from the Proposed Action and the alternatives. This will include an analysis of the subject properties in relation to the local tax base and relevant municipal budgets.

Section 4.10 of the EIS will identify and discuss additional public service requirements required as a result of the Proposed Action and the alternatives. Means of mitigating adverse impacts on public health and safety services, and schools and libraries, if any, will be discussed in Section 5.10 of the EIS.

**3.11 RESOURCE USE PATTERNS**

*AGRICULTURE*

The public commented that the EIS should evaluate impacts of past operations at the subject properties that may have been used for agricultural purposes, potential effects the Farmland Protection Policy Act has on the subject parcels, and potential impact on the regional agricultural industry.

*SCOPE:*

Section 3.11 of the EIS will describe the current and past agricultural operations of each of the subject parcels, and Section 4.11 will evaluate the potential impacts of the Proposed Action and the alternatives on the area's agricultural resources. Means of mitigating adverse impacts, if any, will be discussed in Section 5.11.

*RECREATION*

The public commented that the Nation's gaming facilities provided an important recreational resource. The public also commented that the EIS should identify significant scenic,

architectural, waterway and wildlife assets that contribute to recreation and tourism in the area of the Proposed Action.

*SCOPE:*

Section 3.11 of the EIS will identify and describe recreational resources in the immediate area of the subject properties, and Section 4.11 will evaluate potential impacts to these resources resulting from the Proposed Action and the alternatives. The EIS will describe existing plans for recreation and tourism and will evaluate them for consistency with the objectives of the Proposed Action and the alternatives.

*LAND USE PLANS*

The public commented that the EIS should consider current legislative policies of the local, county and state governments, and evaluate the consistency of the Proposed Action therewith. In addition, local government representatives in the area of the Proposed Action expressed concern over potential loss of control of local zoning, and the New York State Department of Environmental Conservation expressed concern about potential loss of jurisdiction for issues under their control.

*SCOPE:*

Section 3.11 of the EIS will describe the existing status of the Nation properties that are the subject of the Proposed Action. The EIS will identify jurisdictions to which the properties are subject, and will identify existing public policies, including local zoning and land use regulations, applicable to these properties. Section 4.11 of the EIS will examine potential changes in local and state jurisdictional control resulting from the Proposed Action and the alternatives, and will identify any potential adverse impacts resulting from potential changes therewith. Feasible measures to mitigate adverse impacts, if any, to potential changes in jurisdictional control will be discussed in Section 5.11.

**3.12 TRAFFIC AND TRANSPORTATION**

The public commented that traffic associated with current operations should be evaluated and if impacts are identified, mitigation measures should be analyzed and proposed.

*SCOPE:*

Section 3.12 of the EIS will include an inventory of traffic and roadway conditions and accident and safety data within the subject area that encompasses selected intersections. Roadway classifications, widths, pavement conditions, volumes for the selected roadways, pedestrian, parking, and mass transportation conditions near the subject area will be described.

Traffic counts will be taken at selected intersections and roadways likely to be affected by the Proposed Action and the alternatives, and potential changes in levels of service (LOS) at these locations resulting from the Proposed Action and the alternatives will be identified and assessed in Section 4.12. Means of mitigating adverse impacts, if any, will be discussed in Section 5.12.

**3.13 VISUAL RESOURCES**

The public commented that the EIS should analyze potential visual impacts from current operations on areas in close proximity to the subject properties which have been identified by the

federal government, Nation, state, or municipal governments as archeologically sensitive or historic.

*SCOPE:*

Section 3.13 of the EIS will identify and describe the existing visual character of the subject area and its environs, including a description of existing structures, roadways, and natural features. Significant views of the subject property from public roadways will be identified. Section 4.13 will identify and discuss changes to these views resulting from the Proposed Action and the alternatives. Feasible measures to mitigate adverse visual impacts, if any, will be discussed in Section 5.13.

## **C. ISSUES DISCUSSED BUT OUTSIDE THE SCOPE OF THE PROJECT**

### **LEGAL ISSUES**

Commenters raised a variety of issues that relate to the regulatory criteria for the BIA to consider when reviewing applications to acquire land in trust under 25 CFR Part 151 (“the Part 151 process”). The Part 151 process is separate from the NEPA process. These comments will be discussed in the EIS to the extent required under NEPA. They will primarily be addressed through the Part 151 process.