

A. INTRODUCTION

The Cayuga Nation of New York (the “Nation”) has applied to the Bureau of Indian Affairs (“BIA”) for a fee-to-trust transfer of 125± acres¹ 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.² Figure 1-1, “Regional Location,” indicates the general location of the subject properties in the region, and Figure 1-2, “Property Location,” indicates the location of these properties.

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.

B. BACKGROUND AND HISTORY

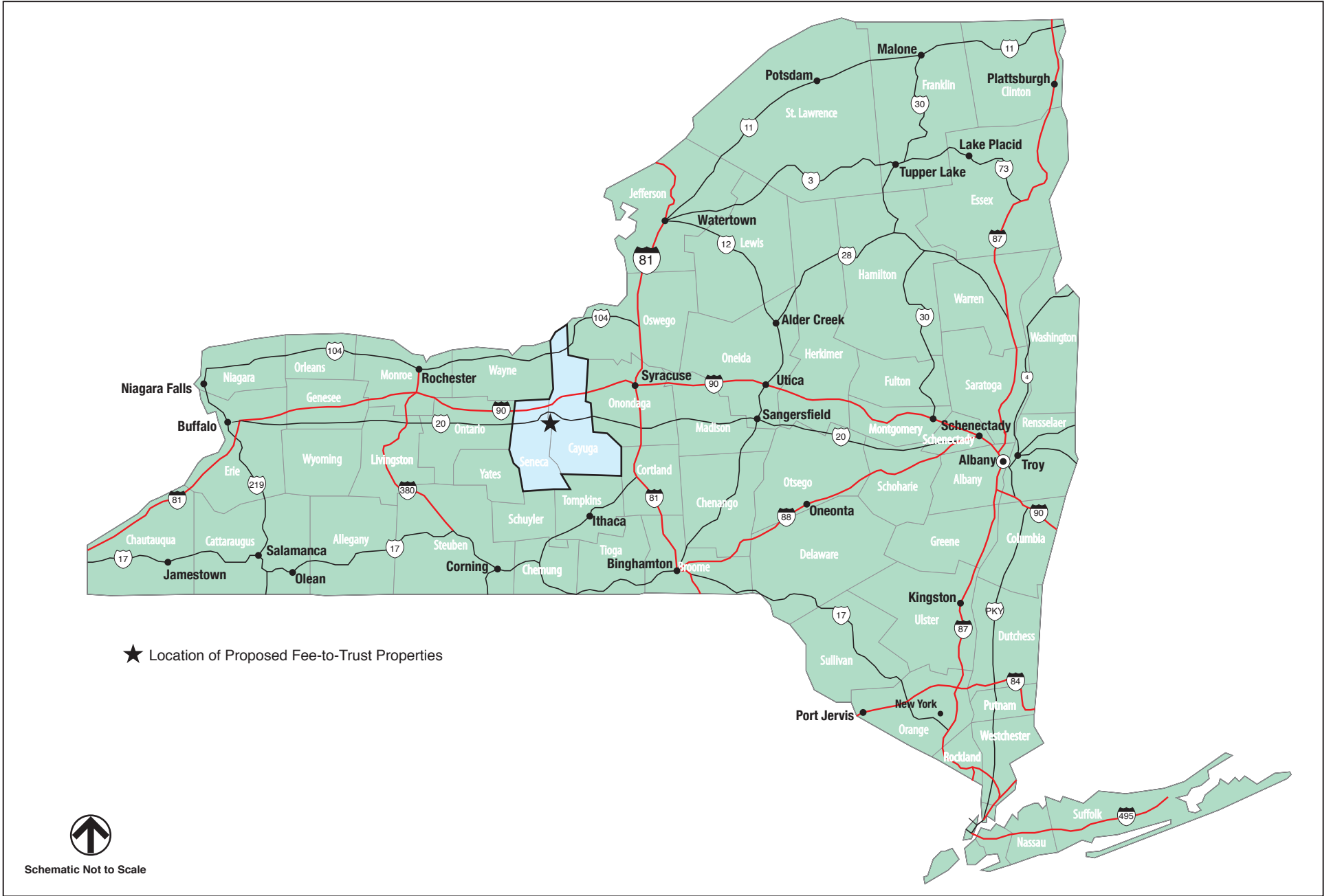
Prior to the arrival of Europeans, the Nation commanded a major presence over a large part of the present-day central New York, extending north into Canada and south into Pennsylvania. The Nation had developed a sophisticated civilization with numerous towns and villages, centered around present day 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 descendants 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

¹ 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.

² Tax maps are available at the Town/Village offices.



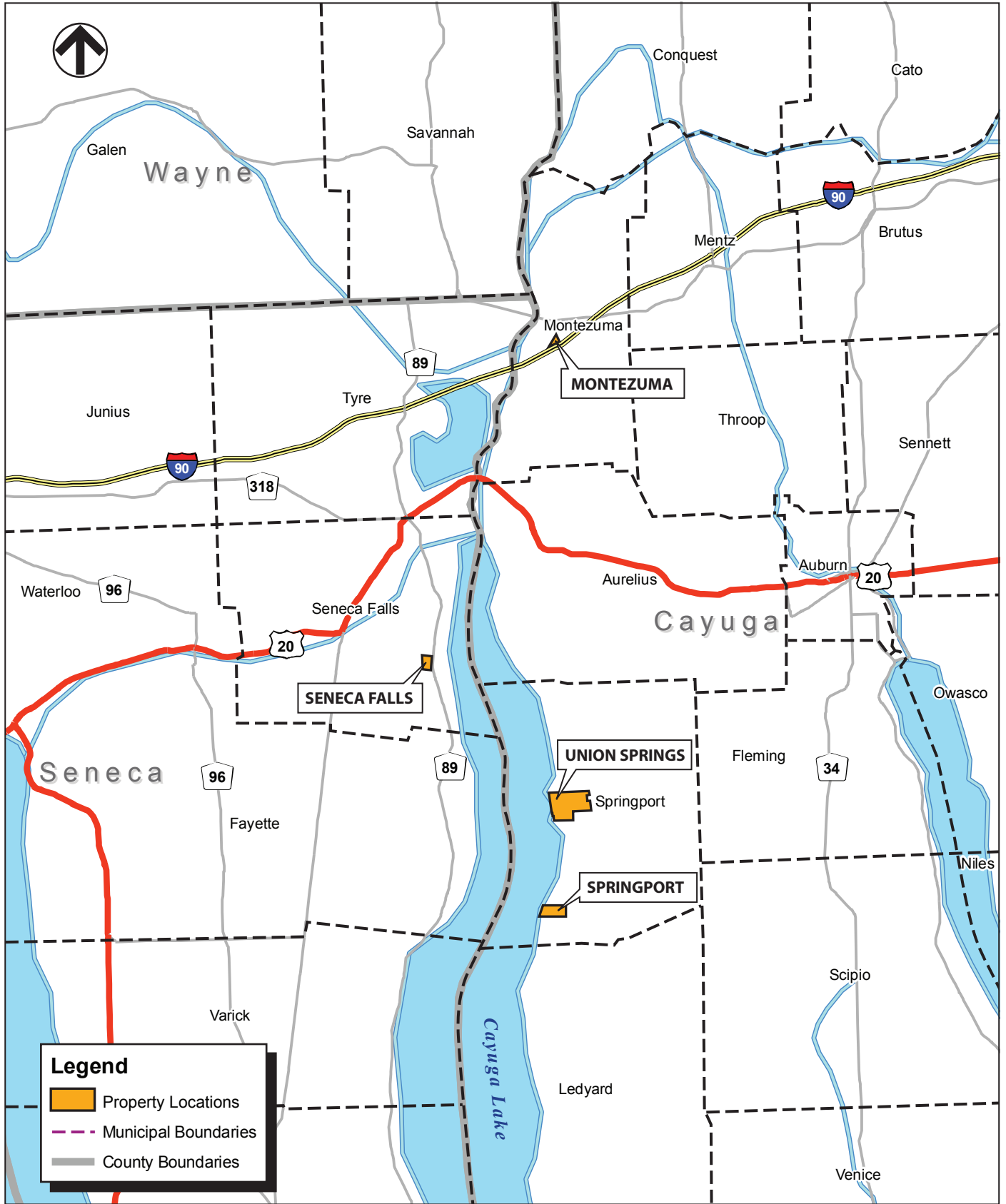


Figure 1-2
Property Locations

Cayuga Indian Nation Trust Application DEIS

Indian Nation. The transfer of land into Federal trust under 25 USC 465 and 25 CFR 151¹ 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.

There are no other Indian claimants to the land which is the subject of the applications. One tribe, the Seneca-Cayuga Tribe of Oklahoma, an out-of-state tribe with a home base and casino operation in Oklahoma, had submitted an application to the BIA to have 229 acres of land taken into trust which is within the Nation's treated reservation, but does not include the land which is the subject of the application. The Seneca-Cayuga's application was denied by the BIA on January 10, 2008.

On March 22, 2006, the BIA provided the Seneca-Cayuga Tribal Historic Preservation Officer with a formal consultation letter in respect to the Nation's fee-to-trust application (see Appendix C). No response has been received from the Seneca-Cayuga Tribe.

C. PURPOSE AND NEED

To generate revenues to fund tribal programs and services, the Nation operates two convenience stores/gas station businesses in Union Springs and Seneca Falls ("Enterprises"). As further discussed below the Nation has generated additional revenues at these sites through the operation of two Class II gaming facilities. These Enterprises are operated through the Nation's its business arm, LakeSide Enterprises. The overall businesses are referred to as LakeSide Trading #1 in Union Springs, New York and LakeSide Trading #2 in Seneca Falls, New York. Both of these convenience stores sell cigarettes and other tobacco products to Indians and non-Indians.

On July 20, 2003, the Nation adopted a Resolution authorizing and adopting a Class II Gaming Ordinance (see Appendix K). The Ordinance authorized Class II gaming on Indian land pursuant to regulations promulgated by the National Indian Gaming Commission ("NIGC") and in accordance with the provisions of the Indian Gaming Regulatory Act ("IGRA").² Shortly thereafter, the Nation opened its two Class II gaming facilities in Union Springs and Seneca Falls, known as LakeSide Entertainment 1 and 2. At that time, the gaming facilities, gas stations, car wash, and cigarette sales comprised the Nation's primary revenue sources. In September and October 2005, subsequent to the Nation's fee-to-trust application, dated May 25, 2005, operations at these gaming facilities were temporarily suspended due to threats of litigation from local governments. Upon suspending the gaming operations, the Nation was left to depend on revenues from its convenience store sales, car wash, and gas and cigarette sales to fund all tribal programs and activities.

As the Nation has publicly stated, the Nation intends to re-open these gaming facilities upon the fee-to-trust transfer, as the revenues from its Enterprises are critical to the Nation's plan to establish economic self-sufficiency as well as its desire to maintain a strong tribal government,

¹ The United States Code (USC) and Code of Federal Regulations (CFR) referenced throughout this DEIS are available at <http://www.gpoaccess.gov>.

² The IGRA is available at <http://www.gpoaccess.gov> under 25 USC, Chapter 29.

both of which are among the goals of IGRA. The reestablishment of gaming facilities as a revenue source is critical to the Nation's fiscal and cultural well-being.

The Proposed Action, then, is the fee-to-trust transfer of the Nation's approximately 125± acres of land, including its Enterprise operations. 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 properties subject to this application.

Transfer of lands into trust is a real estate transaction which would convey title to the subject properties to the United States. If the Nation's fee-to-trust application is approved by BIA, the subject properties will be held by BIA for the use and benefit of 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.

D. THE ENVIRONMENTAL REVIEW PROCESS

OVERVIEW OF THE NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act ("NEPA") of 1969, as amended (42 U.S.C. §4321 et seq.) requires the preparation of an Environmental Impact Statement (EIS) for major Federal actions that may significantly affect the quality of the environment.

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 such as the Proposed Action where no extraordinary circumstances exist and no development, physical alteration, or change of land use after acquisition is known or planned. The BIA and the Nation agreed that an EIS would be prepared to ensure that all potential environmental consequences which could result from the Proposed Action are thoroughly analyzed, assessed, and evaluated.

NEPA provides an interdisciplinary framework to ensure that federal agency decision-making considers environmental factors. NEPA requires the preparation of an EIS for any major federal action that may significantly affect the quality of the environment. Public involvement, which is an important aspect of the NEPA procedures, is provided for at various steps in the development of an EIS. Under NEPA, the BIA is the lead agency for the evaluation of the Proposed Action and alternatives.

Under NEPA, the term "environment" encompasses the natural and physical environment (air, water, wildlife, and geology) as well as the human relationship with that environment (health and safety, jobs, housing, schools, transportation, cultural resources, noise, and aesthetics). The goal of Congress in enacting NEPA was to ensure that Federal agencies consider the potential environmental impacts of their Proposed Actions before deciding on a course of action.

This document is the Draft Environmental Impact Statement (DEIS) for the Proposed Action and has been prepared in accordance with NEPA, the Council of Environmental Quality (CEQ) regulations implementing NEPA (40 CFR §1500-1508).

Cayuga Indian Nation Trust Application DEIS

An EIS is prepared in a series of steps. A Notice of Intent (“NOI”) to begin the EIS process; input is gathered from Federal agencies, State and local governments, and the public to define issues necessary for analysis (a process known as "scoping"); preparation of the draft EIS; receipt and response to public comments on the draft EIS; preparation of the final EIS; and issuance of a Record of Decision (“ROD”). Decisions are not made in an EIS; rather, an EIS is one of several factors decision-makers must consider when deciding between various alternatives for a program or mission.

NEPA does not dictate that an agency select the most environmentally beneficial or least expensive alternative. The purpose of NEPA is to ensure that accurate environmental studies are performed, that they are done with public involvement, and that agencies make decisions based on an understanding of environmental consequences.

MAJOR STEPS IN THE EIS PROCESS

The procedures for completing an EIS have been established under NEPA for all Federal agencies. The major steps in the development of an EIS are outlined below.

NOTICE OF INTENT AND SCOPING PROCESS

A Federal agency first issues a NOI to prepare an EIS. The NOI is published in the Federal Register to inform the public that an EIS will be prepared, and to formally announce the beginning of the scoping process. The NOI describes the Proposed Action and alternatives the agency is considering; provides information on issues and potential impacts; and invites comments, questions, and suggestions on the scope of the EIS.

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. In addition to publication in the Federal Register, the NOI was published on February 12, 2006 in two newspapers of local circulation: The Citizen and The Finger Lakes Times. Copies of the Federal Register NOI and the local notices are attached as Appendix A.

In the scoping process, the public provides comments directly to the federal agency on the scope of the EIS. This aids the agency in determining the alternatives, issues, and environmental impacts to be analyzed in the EIS. Scoping can involve public meetings, written comments, or other means to obtain public views on the EIS. The scoping process for the Cayuga Nation’s Proposed Action is discussed more fully below.

DRAFT EIS

Preparation of the draft EIS is the next step in the NEPA process. It describes, analyzes, and compares the potential environmental impacts of the alternatives and their implementation, and provides additional information on the methodologies and assumptions used for the analyses.

The first substantive section of the EIS, Chapter 1.0, “Purpose and Need,” contains a discussion of the reasons for the Proposed Action. The Proposed Action and alternatives is discussed in the EIS under Chapter 2.0, “Alternatives.” The following section, Chapter 3.0, “Affected Environment,” describes the aspects of the environment that may be affected by the Proposed Action and the alternatives.

Chapter 4.0, “Environmental Consequences,” identifies and assesses the potential effects that the Proposed Action and the alternatives may have on each of the topics discussed in Chapter 3.0. Adverse effects that cannot be avoided are identified. The evaluation of potential impacts projects and reflects relevant changes and trends likely to occur between the time of analysis (2006) and the future instance when a preferred alternative is implemented. Chapter 5.0 of the EIS, “Mitigation,” includes a discussion of feasible measures that could be implemented to minimize or mitigate significant adverse impacts.

COOPERATING AGENCY REVIEW

The BIA, under a Memorandum of Understanding (MOU), has recognized Cayuga County, Seneca County, and the New York State Department of Environmental Conservation (NYSDEC) as cooperating agencies to assist with the preparation of the EIS. The Cooperating Agencies were provided a pre-publication draft of the DEIS for comment and verification of the accuracy of information within their special expertise prior to public review of the DEIS. As further discussed below, a copy of the MOU is attached to this DEIS in Appendix E.

PUBLIC COMMENT ON THE DRAFT EIS

Once the draft EIS is published, NEPA provides a minimum of 45 days for Federal agencies, State and local governments, and the public to comment on it. Meetings may be held during the comment period to facilitate receiving comments directly from Federal agencies, State and Local governments, and the public. The public comment period begins upon publication of a Notice of Availability (“NOA”) for the draft EIS in the Federal Register. Public comments are considered in the preparation of the final EIS.

FINAL EIS

Following the public comment period, a final EIS is published and distributed. The final EIS reflects consideration of all comments received during the public comment period, contains the agency's responses to those comments, and provides revised EIS text based upon comments received from the public. The final EIS will identify the agencies' preferred alternative(s). The release of the final EIS is announced by publishing a NOA in the Federal Register.

RECORD OF DECISION

Once the final EIS is published, a minimum 30-day waiting period is required before a Record of Decision (“ROD”) can be issued by the Secretary of the Interior. A ROD notifies the public of the selected alternative and the reasons for that decision. The EIS analysis is considered as part of the decision-making process. A decision on a land-into-trust application will also be based on consideration of the criteria described in the Bureau of Indian Affairs’ land acquisition regulations, 25 C.F.R. 151.10. The ROD will contain an analysis of these criteria.

E. SCOPING

As discussed above, the CEQ Regulations for implementing NEPA require a “scoping” process to determine and narrow the range of issues to be addressed during the environmental review of a Proposed Action (40 CFR §1501.7).

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.

The NOI published in the Federal Register on February 13, 2006 announced the public scoping meeting, which was conducted by the BIA on March 1, 2006 at the New York Chiropractic College, Seneca Falls, Seneca County, New York. The meeting began at 6:30 p.m., and ended at approximately 9:00 p.m., at which time no further oral comments were offered. The New York Chiropractic College was selected as a convenient and easy to find location with ample parking. Approximately 500 people attended the scoping meeting, and a stenographer recorded the comments offered by each presenter.

In addition to receiving oral comments from the public, attendees were provided with comment cards on which to provide written comments. Written comments were accepted for a two week period following the Scoping Meeting which closed on March 15, 2006. The issues raised during the public scoping meeting are summarized in a Scoping Report that was circulated in November 6, 2006,¹ and is included in this DEIS as Appendix B.

F. 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 status.

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.

A copy of the MOU is attached to this DEIS in Appendix E.

¹ See also: http://www.cayuganationtrust.net/ScopingReport_110606.html