

July 2, 2009

VIA FEDERAL EXPRESS

Mr. Franklin Keel, Regional Director
Bureau of Indian Affairs
Eastern Regional Office
545 Marriott Drive, Suite 700
Nashville, Tennessee 37214

Re: DEIS Comments Submitted by Cayuga County, Seneca County and the State of New York – Cayuga Indian Nation of New York Trust Acquisition Project

Dear Mr. Keel:

On behalf of Cayuga County and Seneca County (collectively referred to as the “Counties”) we submit this letter and enclosures regarding the Draft Environmental Impact Statement (“DEIS”) issued pursuant to the National Environmental Policy Act of 1969 (“NEPA”) for the Cayuga Indian Nation (“CIN”) applications for Land Into Trust dated April 14, 2005 and May 25, 2005 (the “CIN Applications”).

The Counties submit the following as comments to the DEIS including: (i) this letter-report including the exhibits attached to it, (ii) the comment report of O’Brien & Gere Engineers, Inc. dated July 2, 2009 (the “July 2, 2009 O’Brien & Gere Report”); (iii) the Report of Professor Ian Ayres and CRA International, Inc. dated July 2, 2009 (the “July 2, 2009 Ayres Report”); (iv) a separate compendium of questions and comments concerning discrete issues presented by the DEIS; (v) a collection of letters, emails and resolutions by concerned citizens and organizations as additional comments (submitted under cover of the letter of Joseph Picciotti for the Counties) and (vi) resolutions from the Seneca County Board of Supervisors and the Cayuga County Legislature with additional comment submissions attached to them. The Counties also reiterate and incorporate by reference the Counties’ memorandum prepared on their behalf by Harris Beach PLLC dated March 19, 2009 together with the exhibits attached to it which is made part of the DEIS as Appendix “J” (hereinafter referred to as “the Counties March 19, 2009 Comment Letter”). Please be advised that the State of New York joins in this letter as well as each of the submissions, and adopts each of them as its comments to the DEIS.

Hereinafter, the approximately 129 acres of real property subject to the CIN Applications will be referred to collectively as the “CIN Properties.” The CIN Properties may also be referred to as follows: (i) the “Seneca Falls Property,” or the “Seneca Falls Gas Station or Seneca Falls Convenience Store” (when referring to the convenience and/or gasoline retail operations located on CIN’s Seneca Falls Property), (ii) the “Seneca Falls Entertainment

Property” (when referring to the former gaming operations on the Seneca Falls Property); (iii) the “ Vacant Union Springs Property,” (when referring to the vacant parcel located in Union Springs) (iv) the "Union Springs Gas Station or Union Springs Convenience Store" (when referring to the convenience and/or gasoline retail operations located on CIN’s Union Springs Property); (v) the "Union Springs Lakeside Entertainment Property" (when referring to the former gaming operations on the CIN Union Springs Property); (vi) the “Springport Property;” and the (vii) “Montezuma Property.”

A. Overview And Summary: Because the DEIS identifies numerous significant negative effects associated with each alternative that would take land into trust but fails to address such effects, the no-action alternative should be selected. Alternatively, because critical information has been omitted from the DEIS, and because there is pending litigation the outcome of which will have a dramatic effect on potential impacts associated with the CIN Applications, the DEIS should be withdrawn and the NEPA process stayed until there is a final disposition of the pending litigation, and until the omitted information is provided as part of a re-issued DEIS.

The DEIS identifies several environmental effects arising from the proposed action of taking lands into trust, including adverse effects arising from: (i) the release or potential release of petroleum to soils or groundwater from the continued operation of the CIN enterprises, including gas station operations, (ii) adverse financial and economic effects from the tax exempt status of the CIN Properties, and (iii) adverse effects to various natural, cultural, historic and other resources. Despite the fact that the DEIS identifies numerous adverse environmental effects, it dismisses each of them out of hand, and fails to undertake the required “hard look” analysis required. In addition to failing to undertake the hard-look required by NEPA, the DEIS fails to substantively analyze such adverse effects and fails to propose appropriate mitigation measures and alternatives that would address and mitigate the adverse effects identified.

Moreover, the DEIS fails to undertake the required purpose and need analysis, but it is clear from the information presented even in the absence of such analysis that taking the CIN Property into trust does not meet purpose and need requirements, because among other failures, the CIN Applications fall short of meeting the requirements of the Indian Reorganization Act, 25 U.S.C. § 465. The no-action alternative should therefore be selected under the circumstances. In sum, for the reasons set forth below, because CIN has not shown it requires the extraordinary relief of a land-into-trust transfer in order to preserve its culture, be self sufficient and be economically independent, it has not demonstrated that it meets the requirements under the IRA.

It should be noted that this comment report, as well the July 2, 2009 O’Brien & Gere Report and the July 2, 2009 Ayres Report identify additional unmitigated significant adverse effects not considered in the DEIS, including significant adverse effects to natural resources, and to wildlife species and to the environment from the removal of the CIN Properties from the jurisdiction of the State and the Counties, and additional adverse economic and fiscal effects arising from the tax exempt status should the CIN Applications be granted. Nevertheless, even

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without consideration of the multiple impacts ignored by the DEIS, the no-action alternative must be selected here based on the limited analysis provided in the DEIS.

Alternatively, the DEIS should be withdrawn by BIA, and a DEIS should not be released for public review until information required under applicable NEPA regulations is provided. As set forth in detail in a June 9, 2009 letter from the Counties to BIA (attached hereto as part of Exhibit "A"), the Counties requested the DEIS be withdrawn, and a DEIS be reissued only if it included such pertinent information. The information which is required to be made available with the DEIS, but which has been withheld includes but is not limited to: raw data referenced in the DEIS concerning purchases allegedly made by CIN in the Counties and the State, as well as other underlying data and reports utilized in the DEIS as support for its conclusions that significant economic positive impacts will result if the CIN Applications are granted. See Exhibit "A," the June 9, 2009 letter to Kurt Chandler at pp. 4-5 (Request Nos. 4-11). In addition to failing to provide pertinent economic data, the DEIS does not include critical information regarding CIN's plans for future development as well required data regarding environmental impacts referenced in the DEIS but not provided. See Exhibit "A" at pp. 3-5, Request Nos. 1-4.

In addition, the BIA should not issue a DEIS until such time as several significant issues which are currently pending before New York State Courts are finally decided including any appeals are exhausted, as decisions on those matters will dramatically affect the nature and extent of impacts associated with the CIN Applications. Specifically, there is an ongoing state court litigation in a matter entitled Cayuga Indian Nation of New York v. Cayuga County Sheriff, et al., Index No. 2008-16250 (pending in New York State Supreme Court, Monroe County), in which the Cayuga Indian Nation challenged the Counties' authority to require CIN to collect taxes on cigarettes offered by CIN for sale as required. This matter will also have an impact on whether CIN may offer for sale other goods and services without collecting taxes on them. This litigation is currently pending before New York State Supreme Court, and there are also proceedings pending in that matter before the New York State Supreme Court Appellate Division Fourth Department (CA-08-02582).

The socioeconomic impact on the Counties from the sale by CIN businesses of untaxed cigarettes and other goods and services is dramatic. In short, if it is found that CIN is authorized to sell other goods and services without collecting sales taxes, the socio-economic impacts to the Counties and the State is compelling, and potentially devastating. In New York, particularly Upstate New York and Central New York, counties rely on their share of sales taxes collected to provide needed infrastructure improvements and to provide necessary services. The Counties' share of sales taxes collected is also used by them in lieu of increasing property taxes on residents to pay for such services and public infrastructure. The data demonstrates that the loss of sales tax revenue from the failure of CIN's businesses to collect such taxes is substantial, and such failure to so collect taxes will continue to deprive the Counties of necessary income to provide necessary services, and infrastructure. It will also result in the increase in property taxes to other residents as Counties must increase property taxes as their revenues from sales taxes decrease.

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Further, the negative impact to the Counties of the failure of CIN's businesses to collect sales taxes is multiplied exponentially when it is analyzed in terms of the anti-competitive effect that failure to collect taxes has on non-CIN businesses. In sum, if CIN businesses are allowed to sell untaxed goods and services, this will continue to place CIN businesses at an enormous competitive advantage over non-CIN businesses. It will allow CIN to potentially capture markets for goods and services sold by CIN in the Counties and in this region. The impacts from CIN businesses' significant market power would be potentially devastating and likely irreparable. Thus, if untaxed sales are allowed to continue, CIN businesses will continue to dominate the market and the effects from that domination include but are not limited to the loss of non-CIN business and jobs, the erosion of tax base from the jobs lost as well as the loss of businesses.

Moreover, there are social impacts as well from the sales of untaxed goods and services, including cigarettes. Among other negative social impacts from the sale of untaxed cigarettes is the availability of cigarettes at lower prices may increase the rate of smoking among the Counties' residents, including resulting in increased sales to underage persons. Until the pending litigation in New York State Supreme Court is conclusively decided, each of these potential impacts cannot be properly evaluated as part of the NEPA process.

In sum, the DEIS fails to provide a rigorous analysis of critical issues in accordance with NEPA starting with the failure to analyze the purpose and need of the CIN Applications, failure to analyze impacts to public health and safety, socioeconomic impacts and other environmental impacts of critical concern to the Counties and the State. As a result, the DEIS omits the required analysis of potential impacts from the granting of the CIN Applications. Indeed, the DEIS appears to have been drafted to justify BIA granting the CIN Applications rather than identifying and analyzing environmental effects from taking the lands into trust as NEPA requires. Indeed, the failure of the DEIS to acknowledge, let alone consider, extensive comments provided during the scoping phase further demonstrates that it was drafted as a tool to endorse BIA's presumptive decision to grant the CIN Applications. (For ease of reference, we note that the scoping comments on behalf of the Counties are attached as part of Appendix "J" to the DEIS which includes the Counties March 19, 2009 Comment Letter and attached to it as Exhibit "B" the Counties' Comment Memoranda dated March 14, 2006 and February 10, 2006 and the enclosures to each memorandum; Exhibit "C," the Report of Ian Ayers dated February 2006; and Exhibit "D," the Report of O'Brien & Gere dated February 2006).

For the foregoing reasons, the DEIS should be withdrawn, and no DEIS should be issued for public comment or for any purpose until the referenced matters currently the subject of litigation have been finally determined, including the exhaustion of any applicable appeals.

B. The Indian Reorganization Act does not apply to CIN, and in any event CIN has demonstrated that it does not require the exceptional relief associated with the IRA's fee-to-trust transfer process.

NEPA requires that the DEIS contain a purpose and need statement. That statement must analyze the purpose of, and need for the agency action contemplated (including analyzing applicable criteria that may apply to such action). The purpose and need statement must also identify a range of appropriate alternatives that the agency may consider should the action contemplated be taken. 40 C.F.R. § 1502.13 (defining the requirements of a purpose and need statement). Further, the Department of Interior's Guidance provides in pertinent part that a purpose and need statement must:

Present the purpose of and need for the Agency action. The purpose and need shall be described in sufficient detail to aid in the development of an appropriate range of alternatives. Care should be taken to ensure an objective presentation and not a justification.

516 DM 4 (citing to the Department of the Interior's NEPA Guidance).

Here, in order for the purpose and need statement to meet minimum requirements, the BIA must analyze whether granting the CIN Applications is consistent with the legislation under which they are made and specifically 25 U.S.C. § 465, codifying the Indian Reorganization Act (which may hereinafter be referenced as the "IRA" or "Section 465"). The requirement that the purpose and need statement analyze whether the CIN Applications meet the requirements of the IRA is further highlighted by recent Supreme Court case law which calls into question whether Indian Nations such as CIN may petition under the IRA for fee-to-trust transfers. See Carcieri v Salazar, 129 S. Ct. 1058 (2009).

THE IRA DOES NOT APPLY TO CIN

In order to make application under the IRA, CIN must demonstrate among other things that it was a "tribe" at the time the IRA was enacted, and it must demonstrate that it was under "federal jurisdiction." In fact, the Counties contend that CIN was neither a tribe, as that term has been defined under case law, nor was the CIN under federal jurisdiction when the IRA was enacted in 1934. Further, for the reasons stated below, the Counties contend that CIN is not entitled to the benefits of the IRA for other reasons. Recently, the United States Supreme Court, in reversing the decision of the U.S. Court of Appeals for the First Circuit, held that the phrase "now under federal jurisdiction" in §479 of the IRA unambiguously refers to those tribes that were under federal jurisdiction when the IRA was enacted in 1934. Carcieri v. Salazar, 129 S. Ct. 1058, 1063-68 (2009). The Supreme Court further held that the Indian Nation at issue, the Narragansett, was not under federal jurisdiction in 1934 and that, therefore, the Secretary lacked the authority to take the parcels at issue into trust under Section 465. Id.

Further the Supreme Court in Carcieri rejected two alternative arguments advanced by the DOI Secretary and his supporting amici that relied on statutory provisions other than the definition of 'Indian' in 25 U.S.C. § 479 to support the DOI Secretary's decision to take land into trust for the Narragansett tribe Id. at 1067. First the Court rejected the argument that the "definition of 'Indian' in § 479, is rendered irrelevant by the broader definition of 'tribe' in § 479, and by the fact that the statute authorizes the Secretary to take title to lands 'in the name of the United States in trust for the Indian tribe or individual Indian for which the land acquired,' § 465." Id. The definition of tribe in § 479 itself, the Supreme Court stated "refers to any Indian tribe and therefore is limited by the temporal restrictions that applied to § 479's definition of Indian." Id. (citing § 479: "the term 'tribe' wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation.") Moreover, "although § 465 authorizes the United States to take land in trust for Indian tribes, § 465 limits the Secretary's exercise of that authority 'for the purpose of providing land for Indians.'" Accordingly the Supreme Court held "there simply is no legitimate way to circumvent the definition of 'Indian' in delineating the Secretary's authority under §§ 465 and 479." Id.

Further, the Supreme Court rejected the argument advanced by others in Carcieri that 25 U.S.C. § 2202 neither expands the power set forth in § 465, nor "alter[s] the definition of 'Indian' in § 479, which is limited to members of tribes that were under federal jurisdiction in 1934." Id. Section 2202 states that "[t]he provisions of § 465 of this title shall apply to all tribes notwithstanding the provision of § 478 of this title." Section 18 of the IRA, which allowed federally recognized tribes the opportunity to accept or reject the application of the act to their tribal activities and organizations of this title." 25 U.S.C. § 2202. The purpose of § 2202, therefore, is simply intended to "ensure that tribes may benefit from § 465 even if they opted out of the IRA pursuant to § 478...." Id. Accordingly, the Supreme Court held that there is no conflict between § 2202 and the limitation on the Secretary's authority to take lands contained in § 465. Id. Rather, the intent of § 2202 was to "provide additional protections to those who satisfy the definition of 'Indian' in § 479 at the time of the statute's enactment, but opted out of the IRA shortly thereafter."

Moreover, the Court held that the reading of § 2202 advanced by others "would nullify the plain meaning of the definition of 'Indian' set forth in § 479 incorporated in § 465." Accordingly, therefore, under well-established canons of statutory construction, the Supreme Court would "not assume that Congress repealed the plain and unambiguous restrictions of the Secretary's exercise of trust authority in §§ 465 and 479 when it enacted § 2202." Id. ("[a]n implied repeal will only be found where provisions in two statutes are in 'irreconcilable conflict,' or where the latter Act covers the whole subject of the earlier one and 'is clearly intended as a substitute'").

THE CIN WAS NOT UNDER FEDERAL JURISDICTION IN 1934

Here, the unambiguous evidence clearly demonstrates that in 1934 CIN was not subject to federal jurisdiction as it lacked any separate reservation of its own. Indeed, both the U.S.

Supreme Court in 1898 and the New York Court of Appeals in 1912 recognized that CIN had no reservation or land of its own in the State of New York. Instead CIN members made their home with and resided upon the reservation and lands possessed by the Seneca Nation. See New York Indians v. United States, 170 U.S. 1, 18 S. Ct. 531, 542 (1898) (“in the year 1838, at the time of the negotiation of the Treaty of Buffalo Creek, the Senecas, the Onondagas, the Oneidas, the Cayugas, the Tuscaroras, and the St. Regises each possessed a reservation of land in the state of New York, on which members of the tribe resided, and the right of occupancy of which was secured to them by treaty stipulations. The Cayuga Indians had no separate reservation of their own in the state of New York, but made their home with, and resided upon reservation and lands possessed by, the Seneca Nation. This they did with the consent of the Senecas, and a portion of the Onondagas did the same.”) (*emphasis added*); People ex rel Cayuga Nation of Indians v. Commissioners of Land, 207 N.Y. 42, 100 NE. 735 (1912) *affirming* 152 App. Div. 543, 549, 137 N.Y.S. 393, 397 (3rd Dep’t 1912). (“The Cayuga’s have not been allotted a reservation of lands and are without an abiding place except by the sufferance of the Seneca Nation, with whom they reside...”).

Further, as noted earlier, there is simply no record of CIN voting on the IRA, and this fact alone casts significant doubt on whether the DOI even recognized CIN in New York in 1934 when the IRA was enacted. Indeed, the word “recognize” as used in the IRA “involves more than past existence as a tribe and its historical recognition as such.” Memo of the Solicitors Opinion, December 13, 1938 at 864 (hereinafter referred to as “Memo of the Sol. Int. at ___”) (finding that the Miami and Puroui Indians, who have restricted land of their own, had in recent years engaged in few organized activities, and were largely scattered with the majority living apart from the original reservation lands, and so were not eligible for federal recognition under the Oklahoma Indian Welfare Act, which was enacted in 1936 shortly after the IRA); See also Memo of the Sol. Int. at 725 (February 13, 1937) (finding that the St. Croix Chippewa Indians were not eligible for recognition under the IRA, even though they might have existed as a separate band at the time of the United States’ treaty with the Chippewa in 1854). “It is not enough that the ethnographic history of [a] group show them in the past to have been distinct and well recognized tribes or band[s].” Memo of the Sol. Int. at 864.

Instead, the concept of “federal recognition” requires “currently existing group distinct and functioning as a group in certain respects in recognition of such activity must have been shown by specific actions of the Indian Office Department or Congress.” Id. This interpretation of the word “recognized” is entirely consistent with Supreme Court and other precedent, which for more than 30 years before the enactment of the IRA had held the term “tribe” to mean “body of Indians of the same or a similar race, united in a community under one leadership or government, and inhabiting a particular though sometimes ill-defined territory.” Montoya v. United States, 180 U.S. 261, 266, 21 S.Ct. 358, 359 (1901); See also United States v. Candelaria, 271 U.S. 432, 46 S.Ct. 561 (1926).

In short, while the Cayuga may have existed as a tribe at the time of the Treaty of Canandaigua in 1794, and even at the time of the Treaty of Buffalo Creek in 1838, there is no

evidence suggesting the existence of any relationship – let alone an ongoing government-to-government relationship between the United States and CIN – in the century between the signing of the Treaty of Buffalo Creek and the enactment of the IRA in 1934. See Id. In Carcieri, the Narragansett had for more than 250 years been under formal guardianship of Rhode Island. Carcieri, 229 S.Ct at 1061. As was the case with the Narragansett, the evidence unmistakably establishes that in 1934 the Cayuga were not subject to federal jurisdiction as they lacked any separate reservation of their own. Indeed, both the U.S. Supreme Court in 1898 and the N.Y. Court of Appeals in 1912 recognized that the Cayuga had no reservation or land of their own in the state of New York, but instead made their home with, and resided upon the reservation and lands possessed by the Seneca Nation. See New York Indians v. United States, 18 S.Ct. 531, 542 (1898) (“In the year 1838, at the time of the negotiation of the treaty of Buffalo Creek, the Senecas, the Onondagas, the Oneidas, the Cayugas, the Tuscaroras, and the St. Regises each possessed a reservation of land in the state of New York, on which members of the tribes resided, and the right of occupancy of which was secured to them by treaty stipulations. *The Cayuga Indians had no separate reservation of their own in the state of New York, but made their home with, and resided upon the reservation and lands possessed by the Seneca nation. This they did with the consent of the Senecas, and a portion of the Onondagas did the same.*”) (emphasis added); People ex rel. Cayuga Nation of Indians v. Commissioners of Land Office, 207 N.Y. 42 (1912), aff’ing, 152 App.Div. 543, 549 (3d Dept’ 1912) (“the Cayugas have not been allotted a reservation of lands and are without an abiding place except by the sufferance of the Seneca Nation, with whom they reside...”). Indeed, the Seneca in adopting its first constitution in 1848 seemingly looked principally to “[t]he laws passed by the Legislature of the State of New York,” not Congress, “for the protection and improvement of the Seneca Nation of Indians.” Declaration of the Seneca Nation of Indians, Changing Their Form of Government, and Adopting a Constitutional Charter, Section 19 (1848); cf. Kennedy v. Tyler, 269 U.S. 13, 16 (1925) (noting “that the state of New York, as early as 1849, at the request of the [Seneca] Indians, assumed governmental control of them and their property”); Matter of Paterson v. Council of Seneca Nation, 245 N.Y. 433 (1927). By residing with the Seneca, the Cayuga effectively did likewise.

Similarly, the Cayuga remaining in New York have until recently looked principally to the State of New York for aide in the way of education, welfare and annuities under treaties with the State, as well as additional consideration for the lands that conveyed to the State under those treaties. Accordingly, in light of Carcieri, the history of the CIN’s relationship with the United States – or lack thereof – between the late-1830s and mid 20th Century plainly rebuts the BIA and the Secretary of the Interior’s determination that the Nation is eligible to have its lands taken into trust pursuant to § 465 of the IRA. Therefore, and at a minimum, whether the BIA has the authority to grant CIN’s Applications in light of the recent Carcieri decision is an issue that must be evaluated in the purpose and need statement. See Carcieri v. Salazar, 129 S. Ct. 1051 (2009).

Moreover, as was detailed in the “Supplemental Volumes” submitted by Seneca County and Cayuga County as part of their comments to the pre-publication DEIS (and which are appended to the DEIS at Appendix “J” as part of the Counties March 19, 2009 Comment Letter)

an authoritative review of the history demonstrates that the IRA does not apply to the Cayuga Indian Nation. (See the authoritative recitation of the history of the CIN and the facts demonstrating that the IRA does not apply to CIN beginning at pp. 1-1 through pp. 1-2 (there are approximately 7 pages of text), and found in the “Supplemental Seneca County Volume” dated February 2009, and the same text found under “Supplemental Cayuga County Volume” dated February 2009 attached as Appendix J” to the DEIS).

Moreover, as discussed in more detail in the comments provided by the Counties by letter dated February 10, 2006, the IRA does not apply to Indian Nations that failed to vote to accept it. In short, there is no indication that CIN or any other New York Tribes for that matter voted to accept the IRA after its enactment. (See the Counties February 10, 2006 comment letter at pp. 4-5 attached as Exhibit “B” to the Counties March 19, 2009 Comment Letter which is found at Appendix “J” to the DEIS).

GRANTING THE CIN APPLICATION WOULD VIOLATE THE IRA’S INTENT

Furthermore, because the CIN Applications seek to have non-contiguous lands taken into trust, material issues have been raised as to whether granting such applications would be contrary to the IRA’s goal of “consolidation of [existing] checker boarded reservations,” Cong. Rec. 11732 (1934), and the United States Supreme Court’s teaching that “checker boarding” should be avoided. City of Sherrill v. Oneida Indian Nation of New York, 544 U.S. 197, 125 S. Ct. 1478 (2005).

Moreover, because CIN cannot demonstrate that it lost subject lands as the result of the federal government’s allotment policy, it is clear that the IRA and the applicable regulations do not apply to CIN and thus, there is no basis to grant CIN’s Applications. Indeed, Congress enacted the IRA in 1934 with the intent of ending the U.S. government’s policy of allotment of Indian lands as established by the Dawes Act of 1887, and to redress the loss of Indian lands under the allotment system. See e.g. the hearings before the Senate Committee on Indian Affairs, 73d Con, 2d Sess. 1934 at 26 (the IRA “aims to prevent further alienation and dissipation of Indian lands” through the allotment system and “to restore to landless Indians some of the lands improvidently alienated and the administration of the allotment system...”).

The Dawes Act and the U.S. Government’s policy of allotment however, were never applied in New York. See Laurence Hauptman, The Iroquois and the New Deal (1981) at 22 (“in New York, where the Dawes Act had not been applied...”); See also 25 U.S.C. §339 (providing that the allotment policy established by the Dawes Act would not apply “to any of the reservations of the Seneca Nation of New York Indians,” who at the time were the only tribe in New York with any significant land holdings). The mechanism under the IRA for conveying land into trust, therefore, was neither directed at New York, nor was it intended to provide land to landless Indians such as the CIN residing there. Indeed, prior to BIA’s May 2008 decision to take certain lands into trust owned by the Oneida Indian Nation (“OIN”), no Indian owned land in New York had ever been held in trust by the federal government for an Indian tribe.

Accordingly, the history of the U.S. Government's policy with respect to Indians in New York and the legislative history of the IRA itself demonstrate the Congress never intended the IRA's land into trust process to facilitate the transfer into trust of Indian-owned land located in eastern states such as New York.

Moreover, as required by NEPA's regulations at the very least, these issues should be thoroughly discussed and analyzed in the purpose and need statement. That is particularly so here because these issues have been the subject of numerous scoping comments and other comments throughout the application process. (See Appendix "J" to the DEIS the Counties' Scoping Comments Memorandum dated March 14, 2006 which is attached as Exhibit "B" to the Counties March 19, 2009 Comment Letter).

SECTION 465 IS AN UNCONSTITUTIONAL DELEGATION
OF LEGISLATIVE POWER AND IT IS ALSO VIOLATIVE OF
THE TENTH AMENDMENT OF THE CONSTITUTION

On its face, § 465 imposes no meaningful limitations on the Secretary of the Interior's discretion when acting on an application to take land into trust - other than proscribing the Secretary from exceeding the \$2,000,000 cap for land taken into trust. Thus, § 465 can be read as authorizing the Secretary to take into trust any amount of land he deems appropriate, for any reason. This undefined and unlimited discretionary authority effectively allows the Secretary to acquire virtually any property anywhere in the United States including property that might be deemed to contain potentially valuable historic and/or archeological resources. There is simply no limitation stated in § 465 to prevent any acquisition of land in the United States in derogation of state sovereignty.

While there have been some cases that have upheld the Secretary of Interior's exercise of power under § 465, each is distinguishable because none involved a land-into-trust in New York State where: (i) the allotment policy was never implemented; (ii) no lands were lost to the federal allotment policy; and (iii) the IRA was simply never intended to apply. Moreover, the unconstitutional delegation of power conferred on the Secretary of the Interior under § 465 also implicates the Tenth Amendment to the United States Constitution. By delegating such power to the Secretary of the Interior, the Federal Government is effectively depriving the States of powers reserved to them under the United States Constitution. The Tenth Amendment expressly reserves "to the States respectively or to the People" all of the "powers not delegated to the United States by the Constitution, nor prohibited to the States." Thus, under the Tenth Amendment, the States or the People, retain any power not specifically granted to the Federal Government by the Constitution. See generally, United States v. Lopez, 515 U.S. 549, 552, 115 S. Ct. 1624, 1626 (1995).

As set forth in detail in the comments provided during the scoping process, granting the CIN applications effectively deprives the State (as well as counties and localities) the ability to exercise its police powers on critical matters including enforcing regulations to protect public health and safety and the environment. The Constitution does not grant the United States power

to transfer sovereignty over state land to another sovereign or quasi-sovereign government without state concurrence, a fact confirmed by applicable case law and the terms of the Constitution itself. Thus, the Federal Government cannot impinge a state's sovereignty by ceding land located within a state and subject to state jurisdiction to some other sovereign or quasi-sovereign entity without state consent. The limitation of Federal authority has been repeatedly upheld, including in recent Second Circuit decisional authority. E.g., Seneca Nation of Indians v. New York, 382 F.3d 245, 271 (2d Cir. 2004).

EVEN IF SECTION 465 WERE TO APPLY TO CIN THERE ARE SERIOUS QUESTIONS AS TO WHETHER THE CIN APPLICATIONS MEET APPLICABLE CRITERIA SO AS TO MERIT THE GRANTING OF TRUST STATUS TO THE CIN PROPERTIES

In addition, other critical issues were not addressed in the purpose and need statement, including whether there is a need to take CIN property into trust, even if § 465 can be shown to apply here. In fact, before analyzing whether the CIN Applications meet § 465's criteria, there is an additional jurisdictional prerequisite which must be considered to determine whether CIN is eligible to submit an application to have lands taken into trust under the IRA. Specifically, the Secretary of the Interior is required to determine whether the Nation has submitted a proper tribal resolution authorizing it to seek to place lands into trust. The requirement that a proper tribal resolution be submitted is specifically set forth in BIA guidance documents regarding such fee to trust transfers (as well as in the Office of Indian Gaming Management's "Checklist for Gaming Acquisitions") (copies of pertinent portions of these guidance documents are attached hereto as Exhibit "B"). In fact, the IGRA checklist provides in pertinent part that the tribal resolution must include the following information:

The acquisition package must include a copy of the resolution of the appropriate governing body of the tribe authorizing the trust acquisition request and must include a copy or excerpt of the tribe's governing document, if any, which identifies the scope of authority of the tribe's actions. The resolution should include a request to take the land into trust, the exact legal description of the property, the location, the intended purpose and a citation to the applicable portion of the tribe's governing document which permits the governing body to make the request.

See the pertinent provisions of the IGRA checklist attached hereto as Exhibit "B." Hence, the DEIS must analyze whether the Secretary of Interior obtained the requisite proof of tribal authorization of the trust applications made by CIN here.

The requirement that CIN demonstrate it has enacted an approved resolution to have lands taken into trust has particular importance here, given the disorganized and fractious nature of CIN's governance. Mr. Halftown is one of a number of individuals and factions claiming to speak for CIN. His failure to submit the required tribal resolution is telling. Further, previous

correspondence (attached to the Counties March 19, 2009 Comment Letter as part of Exhibit "B") confirms that there are leadership disputes within the CIN governance. Moreover, the BIA had previously closed CIN's office in response to one faction's allegation of mismanagement and theft of CIN funds by purported CIN leaders. See the Counties March 19, 2009 Comment Letter at Exhibit "B." Further highlighting the question of whether CIN itself truly desires that these lands be held in trust is the fact that one of the CIN factions has purchased land in Cayuga County and stated that it is not interested in having such land placed into trust. Id. As a result, the purpose and need statement should analyze whether the prerequisite of the filing of an authorized resolution, based on the BIA's own criteria has been met. Indeed, in his April 14, 2005 letter to BIA enclosing one of the CIN land into trust applications, CIN's counsel concedes that due to "a leadership dispute within the Nation," the application has "not been submitted to the full Cayuga National Council for consideration" (a copy of CIN counsel's April 14, 2005 letter is attached hereto as Exhibit "C").

Moreover, the BIA had previously closed CIN's office in response to one faction's allegation of mismanagement and theft of CIN funds by purported CIN leaders. See the Counties March 19, 2009 Comment Letter at Exhibit "B." Further highlighting the question of whether CIN itself truly desires that these lands be held in trust is the fact that one of the CIN factions has purchased land in Cayuga County and stated that it is not interested in having such land placed into trust. Id. As a result, the purpose and need statement should analyze whether the prerequisite of the filing of an authorized resolution, based on the BIA's own criteria has been met.

Further, as has been identified in submissions previously provided to the BIA including in the Counties' February 10, 2006 Comment Letter (at pp. 10-11) (attached to the Counties' March 19, 2009 Comment Letter and attached as Appendix "J" to the DEIS), the evidence demonstrates that CIN can re-establish its presence in the region and operate its successful businesses without its land being conveyed into trust.

As such, the purpose and need statement should carefully scrutinize whether CIN can achieve its stated goal of re-establishing its presence in the region and operating its businesses successfully without converting its land into trust. Analysis of the issue of whether CIN can achieve its stated goals without the extraordinary remedy of conveying lands into trust is particularly important where as here, avoiding the fee-to-trust transfer would mitigate the multiple significant detrimental effects to the State and Counties and local municipalities that will inevitably result from granting the CIN Applications. See pages 17-41 *infra*.

In addition, the purpose and need statement is required to analyze CIN's need to have the applications granted in light of BIA's policy of denying such applications where it determines that Indian tribes, such as CIN, have the "ability to manage their own affairs" including where evidence shows CIN has "been highly successful in their own efforts." See the Counties' Comment Letter dated February 10, 2006 at Exhibits "C" and "G" (attached to the Counties' March 19, 2009 Comment Letter as part of Exhibit "B" following the March 14, 2006 Scoping Comments found at Appendix "J"). That CIN has been highly successful in managing its own

affairs is further underscored by recent businesses that have been opened in Seneca and Cayuga Counties by CIN including its recent purchase of among other properties, an ice cream stand which it is currently operating in the area.

Further, in order to meet the applicable statutory criteria under NEPA, the purpose and need statement should also contain an evaluation of whether the CIN Applications meet the relevant criteria under 25 C.F.R. § 151.10. The relevant criteria under which the CIN Applications must be analyzed requires: (i) BIA to scrutinize the Nation's justification (if any) of anticipated benefits from the acquisition; (ii) CIN to provide a plan which specifies the anticipated benefits related to the proposed use of each parcel; and (iii) that substantial weight be given to concerns raised by state and local governments when determining if such applications should be granted. Each of the foregoing issues should be addressed and analyzed in the purpose and need statement of DEIS, but no such analysis is provided.

The analysis of whether CIN's Applications meet statutory criteria must be evaluated in light of CIN's claim that it will simply maintain status quo and not seek to in any fashion expand its operations or develop properties which are not currently developed. In sum, CIN's "plan" to maintain the status quo must be analyzed to determine if it meets the requirements of 25 C.F.R. § 1510, because failing to expand its operations would not appear to further the goals of economic self-sufficiency or meet the other criteria required under the IRA.¹

Moreover, since the CIN will begin its gaming operations if its applications are granted, the purpose and need statement must analyze in detail those aspects of the CIN Applications whereby CIN seeks to conduct gaming. This inquiry should include but not be limited to whether gaming on the CIN Properties comports with the purpose underlying and the restrictions set forth in the Indian Gaming Regulatory Act. Specifically, the purpose and need statement must perform an analysis as to whether CIN's proposed gaming satisfies requisite federal mandates, including those specified under 25 U.S.C. §§ 2710 and 2719 (requiring that for gaming to be authorized the Indian Nation must put in place adequate measures to audit its gaming activities, and implement adequate measures to investigate employees that conduct gaming operations).

¹ As detailed below, the DEIS's statement that CIN will merely maintain the status quo is contradicted in the documents. In fact, it appears that CIN will increase the number of employees at its office facility. DEIS at pp. 4.7-7 – 4.8-8. While CIN claims that the same employees that were terminated when gaming operations ceased will be rehired if the CIN Applications are granted there will be no restriction in place preventing CIN from hiring more persons immediately. Moreover, there were references in the DEIS (p. 4.8-2) to a "four year plan" utilized by CIN regarding economic self-sufficiency and future plans. Despite due demand that it be provided, CIN continues to refuse to do so.

C. Given the cumulative impacts posed by the Oneida Indian Nation application together with those posed by the CIN Applications here, a programmatic EIS should have been prepared.

By Record of Decision dated May 20, 2008, the Secretary of the Department of the Interior granted the application of OIN to place approximately 13,003 acres of land into trust located in Oneida and Madison Counties which are in proximity to Cayuga and Seneca Counties (the "OIN Application"). While the OIN Application involves more acreage than the CIN Applications, the OIN Application raises many of the same issues as those presented by CIN here. Thus, the OIN Application and the CIN Applications each present similar detrimental environmental effects including expansion of gaming activities, the creation of checker-boarded reservations, including the significant adverse effect of the removal of State sovereignty. The granting of sovereign status to lands taken into trust presents particularly significant detrimental impacts concerning health issues, environmental issues and land use planning across Central and Western New York as it strips the State, Counties and localities of their ability to regulate activities on such properties and to properly regulate such activities across the region. Further, both CIN and OIN raise the same kinds of socio-economic issues, including loss of property tax revenues and revenues to special use districts and school districts from the taking of land into trust. Further, the OIN and CIN Applications raise issues regarding the significant adverse effects from the operation of Indian Nation enterprises that fail to collect sales taxes and the ramifications of such failure on other businesses and the operation of government in the areas affected.

In addition, there is the undeniable cumulative effect that gaming across Central New York State will have if the current challenge to the OIN Application is not successful. In short, the proliferation of Class II gaming in the event the CIN Applications are granted together with the Class III casino-type gaming which will be expanded under the OIN Application may, among other impacts, disproportionately affect persons from lower income households and may result in the proliferation of social issues such as problem gambling. See Professor Ayres July 2, 2009 Report.

Further, the proliferation of checker-boarded reservations throughout Central New York under the OIN Application and CIN Applications will have the potential for cumulative effect on the ability of local and county governments as well as the State to exercise appropriate police powers to protect human health and the environment throughout the region.

Under the circumstances, the preparation of a programmatic EIS is required. Longstanding NEPA precedent requires that where as here, several proposals for actions that will have potential cumulative or synergistic environmental impacts upon such region; the environmental consequences of each of those actions must be considered together. Kleppe vs. Sierra Club, 427 U.S. 390, 409, 96 S. Ct. 2718, 2730 (1976). The failure of BIA to prepare a programmatic DEIS here requires that the DEIS be withdrawn and BIA begin anew the NEPA

review utilizing a programmatic DEIS which assesses the cumulative and synergistic impacts associated with the granting of the OIN Application and the pending CIN Applications.

D. The DEIS fails to consider alternatives as required by NEPA.

Consistent with the DEIS's omission of pertinent facts, and failure to analyze critical issues, the alternatives section of the DEIS fails to acknowledge, let alone analyze, the range of alternatives NEPA requires. Indeed, the only alternatives considered are the statutorily required no-action alternative and two other alternatives each of which contemplate taking most of the land identified in the CIN Applications into trust. As such the DEIS analyzes three alternatives. The first (which is the alternative preferred by CIN) would result in all of the CIN property being taken into trust. The second is the no action alternative. The third is the so-called "Enterprise Alternative." The Enterprise Alternative includes the CIN Properties where the gasoline station operations, convenience stores and former gaming operations are located. The vacant property located in Union Springs is also identified as an "Enterprise" property under that alternative. In fact under the third alternative, the only properties that would not be taken into trust are the relatively small vacant parcels located in Towns Montezuma and Springport representing only a fraction of the total properties encompassed by the CIN Applications.

As required, the DEIS also identifies a second alternative, the no-action alternative, but the DEIS fails to undertake a rigorous analysis of the no-action alternative. For example, under NEPA regulations and Department of Interior guidance, the no-action alternative must be analyzed in the same manner as other alternatives. 516 D.M. 2.2(E) (requiring a rigorous approach to employing NEPA's requirements); 40 CFR § 1508.20 (identifying mitigation as including selecting alternatives or options where no action or more limited actions be taken). Despite the requirement that the no-action alternative be rigorously analyzed, the DEIS fails to analyze the benefits of the no-action alternative, including that the no-action scenario would avoid impacts to the State, Counties and localities from the loss of property taxes and assessments, and avoid the negative impact from the loss of the State and Counties ability to exercise their police powers. Indeed, rather than analyze the no-action alternative, the DEIS simply dismisses it because it does not meet CIN's needs.

It is worth noting that the alternative contemplating that Enterprise Properties be taken into trust includes not only those properties containing ongoing CIN businesses, but also the vacant Union Springs parcel, as such that parcel is considered an "Enterprise Property" by CIN. Thus, for these and other reasons, it fully appears that despite statements in the DEIS to the contrary, CIN plans to develop businesses on the vacant Union Springs parcel. See DEIS at pp. 2-1 – 2-3 (identifying each of the alternatives including the so-called "Enterprise Properties Into Trust Alternative" which includes the 108-acre vacant lot in Union Springs as an Enterprise Property).

In fact, the DEIS fails to acknowledge that the State of New York as well as the Counties specifically identified other alternatives which were required to be analyzed. 40 C.F.R. § 1507.1 obligates all federal agencies to comply with the NEPA regulations including 40 C.F.R. § 1502.1

which states that the primary purpose of an environmental impact statement is to serve as an action-forcing device to ensure that NEPA's policies and goals are infused into the actions of the Federal Government. A DEIS must provide full and fair discussion of significant environmental impacts and it must inform the decision maker and the public of reasonable alternatives which would avoid or minimize adverse impacts and enhance the quality of the human environment.

Given the undeniable and long-term adverse impacts of granting CIN's Applications, the DEIS was required to analyze alternatives that were identified throughout the scoping process that would mitigate or at least partially mitigate those impacts. For example, despite comments that identify alternatives that would mitigate the loss of property taxes, school taxes and special district assessments, the DEIS fails to consider requiring as a mitigation measure (and as part of an alternative) that CIN make payments in lieu of taxes and payments in lieu of assessments. The DEIS was required to analyze such mitigation measures and alternatives to address adverse impacts arising from the tax exempt status of the CIN Properties, and particularly the decreased ability of the Counties and the State to provide necessary community services relating to roads and public infrastructure.

Further, the DEIS fails to identify other alternatives that would have mitigated the significant competitive advantage enjoyed by CIN businesses if the CIN Applications are granted. See the Comment Memorandum submitted by Cayuga and Seneca County dated March 14, 2006 at pp. 25-27 (attached to Exhibit "B" the Counties March 19, 2009 Comment Letter which is found at Appendix "J" to the DEIS.) The DEIS as amended in May 2009² states several times that CIN will pursue agreements with municipalities whereby CIN would theoretically pay for certain community services and infrastructure costs, but there is no requirement that CIN enter into such agreements nor are the material terms of any such agreements identified. As a result, statements made in the DEIS about CIN's alleged intent to enter into negotiations concerning such agreement is worthless, and does not mitigate or seek to mitigate any of the impacts identified.

In addition, the DEIS was required to analyze alternatives that would have allowed the Counties and the State to maintain certain regulatory jurisdiction over CIN properties taken into trust, including jurisdiction over environmental issues, public health and safety issues. *Id.* To the extent that the DEIS indicates that federal law would be enforced on CIN Properties in the absence of State, County and local law, there is no discussion of how federal authorities would undertake any such enforcement measures, and no analysis of whether enforcement of federal law would meet minimum requirements to protect public health and safety, as well as to protect the environment. An analysis of federal enforcement of such regulations on other lands taken into trust by BIA is minimally required here in order to analyze the potential impacts of federal enforcement as it relates to these critical issues.

² It should be noted that an earlier version of the DEIS was issued in March 2009 and then withdrawn for further review by the BIA, and as noted herein, several revisions were made between the DEIS issued in March and the DEIS issued on or about May 22, 2009 for public review.

Moreover, no valid screening analysis was undertaken to demonstrate that the range of alternatives identified in the DEIS met applicable criteria (including criteria identified under the IRA for such applications). As discussed, the screening analysis must include a discussion as to whether the application is justified under the IRA based upon, among other factors, whether a plan has been provided by the applicant-tribe which specifies anticipated benefits based upon the use of each particular parcel, and thoroughly consider concerns raised by state and local governments as to whether lands should be taken into trust. No such analysis is undertaken in the DEIS.

E. Impacts to Water Resources and Land Resources Associated With Wetlands.

Even a casual review of the DEIS reveals that numerous significant adverse environmental effects were identified, including adverse effects on water resources and wetlands, yet the DEIS failed to analyze such effects as required by NEPA, including failing to analyze the impacts of such effects under pertinent regulations. In addition the DEIS has failed to analyze measures to mitigate such effects, including failing to identify alternatives that would mitigate same.

WATER RESOURCES

The principal water resource to which the DEIS documents adverse environmental impacts or potential impacts is Cayuga Lake. Indeed, because Cayuga Lake is a regional tourist attraction and destination, and because it is as close as 500 feet to the west of the Nation's Union Springs property (containing gas station operations), an analysis of identified potential releases from such property was required. As detailed below regarding hazardous materials and petroleum storage, there are any number of significant adverse environmental effects documented in the DEIS that will result from the granting of the CIN Applications as they relate to the Union Springs Gas Station and Convenience Store Property, yet the DEIS makes no attempt to evaluate those impacts. For example, the DEIS finds that there are a number of documented "recognized environmental conditions" associated with the CIN's Union Springs and Seneca Falls gasoline station operations, yet no definitive measures are identified to mitigate same – measures that are easily identified and could and should be implemented – before any of the CIN Property is taken in trust.

In fact, so-called Phase I Environmental Site Assessments conducted in April, 2009 ("Phase I ESAs")³ found evidence of recognized environmental conditions associated with the

³ It is important to note that the Phase I ESAs conducted most recently in April 2009 contain critical limitations which undermine the validity of many of the conclusions contained in the Phase I ESAs. For example, the Phase I ESAs in many cases failed to provide the required interviews of the property owner/operators, as well as failing to provide interviews with neighboring property owners. Phase I ESA for the Seneca Falls Property at p 15 (attached to the DEIS as an Appendix). In addition, critical data, including data associated with previous test results documenting impacts from hazardous substances was described in at least one Phase I ESA but it was not provided. Id. It should also be noted that rather than performing the Phase I ESAs for BIA, CIN contracted for those studies, under the

operation of the CIN gasoline station in Union Springs and past uses of that property. Indeed, the DEIS concludes based on the Phase I ESA for the Union Springs Gas Station Property that: “the current and past use of the property as a gasoline filling station could potentially have caused a release of petroleum contamination in soil or ground water.” DEIS Section 3.4 at p. 3.4-7. The DEIS goes on to report that the underground storage tanks on that property are not registered with the New York State Department of Environmental Conservation (“DEC”). The failure to register such tanks is of a particular concern because the Phase I ESA reports that the capacity of underground storage tanks on the Union Springs Gas Station Property is upwards of approximately 23,000 gallons (attached as an Appendix to the DEIS).

Moreover, there is no indication from the Phase I ESA for the Union Springs Gas Station Property that the underground storage tanks and associated underground piping and/or gasoline dispensers contain secondary containment required under New York and Federal law, including New York Environmental Conservation Law and the Federal Resource Conservation and Recovery Act. Further, the DEIS specifically found that there was no documentation that the CIN had implemented required practices to maintain any leak detection equipment, nor was there evidence that required inventory reconciliation was undertaken as required by applicable regulations. In sum, the Phase I ESAs document that the CIN Union Springs gasoline/convenience store operations are in violation of state and federal law in terms of registration and inventory reconciliation, and that such operations are likely in violation of secondary containment requirements. See DEIS at p. 3.4-7.

Further, the so-called “Phase II Investigation” undertaken at the Union Springs Gas Station Property was by any measure woefully inadequate, and failed to properly evaluate the potential impacts from current operations and past activities. In fact, the Phase II consisted of merely a handful of soil borings (five), and thus any analysis was simply not sufficient to determine whether impacts from releases had occurred to groundwater throughout the site. DEIS pp. 3.4-11 – 3.4-12. Indeed, despite undertaking a so-called Phase II Investigation at the Union Springs Gas Station Property, the DEIS concluded that: “while status of groundwater remains unknown, the investigation data did not identify any areas that have been adversely affected by current or former on-site operations.” In other words, no investigation was undertaken of groundwater to determine if in fact impacts had occurred.

In addition to the obvious potential impacts to Cayuga Lake from the Union Springs property, the CIN Seneca Falls property on which the other CIN convenience store and gas station is operated also revealed recognized environmental conditions, including those indicating past releases or the strong potential that past releases occurred. The Seneca Falls Gas Station Property, like its Union Springs counterpart is located in close proximity to Cayuga Lake (less than 1,500 feet east of it) and also contains underground storage tanks. Thus, the DEIS concluded that the CIN Seneca Falls property also presents recognized environmental conditions arising from the operation of the gasoline station, including underground storage tanks with

circumstances this represents at least the potential for a conflict of interest, and the limitations (and omission of information) presented in those reports underscores the concerns posed by such a conflict.

capacity of approximately 15,000 gallons. See DEIS at p. 3.4-4 – 3.4-5 and the Phase I ESA of the Seneca Falls Property (attached as an Appendix to the DEIS). As with the Union Springs property, registration for the current USTs on the Seneca Falls site is not current and accurate.

Moreover, there is no indication that the Seneca Falls Gas Station Property contains required secondary containment required under New York State and federal law, and thus releases may have occurred and may be occurring today. See DEIS at p. 3.4-4 – p. 3.4-5. As with the Union Springs gas station property, there are also several previously noted spills which have occurred on the CIN Seneca Falls Gas Station Property, including a spill documented in a 1992 report. For some reason, that 1992 Report was not provided in the Phase I ESA. Rather, the DEIS stated that the report was “unavailable.”⁴ DEIS at p. 3-4.4.

In addition to identified impacts and potential impacts from the release of gasoline and other potentially hazardous substances, the DEIS documents likely impacts from the improper and illegal use of pesticides on the CIN properties, including at the CIN Seneca Falls property (documenting interviews with knowledgeable personnel indicating that “herbicides and pesticides are applied to mowed portions of the site on an as-needed basis which may have affected shallow soil and/or surface waters at the site.” DEIS at p. 3.4-3). The DEIS makes the same observations regarding improper pesticide use at the Springport parcel (DEIS at p. 3.4-10). Further, a number of pole mounted transformers potentially containing PCBs were noted in the Phase I ESA for other CIN properties. (DEIS at pp. 3.4-3 Seneca Falls Property and 3.4-11, Montezuma Property.) Concerns regarding asbestos containing materials were also noted at CIN Properties. See DEIS at p. 3.4-3 regarding the Seneca Falls Property.

Rather than identifying measures to address recognized environmental conditions, the DEIS merely indicated that since the CIN operations were continuing, that no action was required to address open violations of New York State and Federal regulations and law. The DEIS’s conclusions in this regard fly in the face of the BIA’s policy which requires that for properties to be taken into trust, the applicant must demonstrate that the activities undertaken on those properties will not subject the United States to potential liability. 602 DM2 (requiring property not be taken into trust if it is contaminated). At a minimum, a full Phase I undertaken in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), complete with required interviews and all test results provided should undertaken at each of the CIN Properties.

As for the gasoline station properties in Union Springs and Seneca Falls, thorough soils and groundwater investigations must be undertaken to meet the Department of the Interior’s own requirements under the referenced guidance for the federal government taking title to property. If such investigations are completed and conclude there is no contamination, then in accordance with such police, the properties would be eligible for transfer, if not they could not be held in

⁴ This report represents one of the critical documents withheld by BIA which must be provided in order to make the DEIS complete. See DEIS at p. 3.4-4 referencing 1992 report which is “unavailable” (this information was specifically requested by the Counties in correspondence to BIA dated June 9, 2009).

trust. Moreover, even if no contamination was revealed, necessary equipment must be implemented at each of the gas stations, and open violations of state and federal law corrected. Moreover, at a minimum, all tanks at each of the CIN Properties must be registered. Additionally, all leak detection equipment and other equipment, including secondary containment measures must be implemented in accordance with applicable state and federal law before any transfer could be contemplated. As it now stands, should these gasoline operations be transferred without making these changes, the United States would immediately upon transfer be in violation of RCRA requirements as outlined above.

WETLANDS: THE DEIS'S FAILURE TO DELINEATE SAME AND ASSESS EFFECTS IDENTIFIED

The DEIS documents wetland conditions on the CIN Union Springs and Montezuma properties, and it also documents wetland conditions immediately adjacent to the CIN Seneca Falls and Springport properties. In fact, the DEIS states that some of these areas exhibiting wetland conditions are identified as wetlands by the National Wetland Inventory. The DEIS further concludes that "it is anticipated that these potential wetland areas would likely fall within the jurisdiction of the Army Corps of Engineers ("ACOE"). Further, despite the identification of recognized environmental conditions and violations at the gasoline station operations on CIN's Union Springs and Seneca Falls properties, possible impacts to the wetlands from discharges from these operations was not evaluated.

As to the CIN Union Springs property, and particularly the 108 acres vacant parcel, among other critical features, there are ponds on site which have a National Wetland Inventory classification of PUBHx. These ponds were likely the result of the mining of water lime in an attempt to access gypsum, or they are sink holes formed when bedrock collapsed over voids created by the dissolution of gypsum. In any event, this water lime/gypsum combination lining the ponds creates a very unique micro-habitat for rare and endangered New York State fauna and flora. The DEIS's failure to evaluate these ponds lays bear obvious shortfalls in the DEIS's analyses of the impacts to these critical wetland habitats.

As to the Montezuma and Springport properties, while those properties are vacant and CIN has stated that it has no present plan to develop same, given the requirement under the IRA that CIN engage in activities that promote economic growth, it is inevitable that these properties will be developed. Indeed, the DEIS concludes regarding several of the CIN properties that "a federal wetland delineation would be required in the future if any land disturbance/development activity is proposed." By deferring such delineation, the DEIS fails to engage in the analysis required to assess impacts from the inevitable development of these lands.

Moreover, avoiding delineation of such wetlands flies in the face of NEPA requirements as well as the requirements by the federal, state and local agencies which provided comments on this application. As discussed previously in detail, and in the comments submitted during the scoping phase, because there will be no municipal, county or State regulation of development on the CIN Properties, nor has there been any explanation as to how federal regulations would be

enforced, stating that actions will be taken in the future without requiring them as mitigation measures to be implemented into the preferred alternative is meaningless. Moreover, applicable regulations and guidance, as well as comments from the United States Environmental Protection Agency ("EPA") require that wetlands on the CIN Properties be delineated. See the correspondence of EPA's G. Musumeci to Franklin Keel dated February 27, 2006 stating that all wetlands should be delineated on the CIN Properties (attached to the DEIS as an Appendix).

Further, the DEIS fails to discuss the fact that the CIN Union Springs property is located within the "Well Head Protection District" developed by the Village of Union Springs in 2002. The DEIS should have undertaken an analysis regarding the potential ramifications of the Union Springs on the nearby water supply wells. Thus, continued activities on the CIN Union Springs parcel, including the gasoline station activities could very well adversely affect the wells located in proximity thereto, but the DEIS avoids any such analysis. Further, both the CIN Union Springs parcel and the CIN Springport parcel are located in proximity to a Federal ("EPA Site ID No. NYN000204289) which concerns a plume of groundwater contamination of certain volatile organic compounds. The DEIS fails to evaluate the impact of the Superfund site on those two parcels, including failing to evaluate the potential (particularly given the CIN gasoline operations) that such operations may have contributed to the release being addressed by the Superfund site.

In addition, the DEIS documents that the CIN's Union Springs property is located within the Cayuga Lake Watershed area, but does not analyze the potential impact to such watershed should the CIN Applications be granted. The DEIS's failure to analyze this impact is a substantial omission because CIN's Union Springs Property includes vacant land encompassing more than 108 acres; this property has the potential to undergo significant development in the future, underscoring the requirement that the DEIS should have analyzed potential development scenarios.

In fact, based upon the inevitability that each of the CIN Properties will be developed in order for the purpose of the CIN Applications to be fulfilled, there should be reasonable analyses of the likely potential build-out of each of the CIN Properties, including those currently not developed as well as evaluating further build out of those properties currently developed.

F. Air quality.

The air quality analysis undertaken in the DEIS is flawed because it fails to address issues identified during the scoping phase, including that air quality is significantly compromised in the areas containing CIN properties. Further, the DEIS air analysis is flawed because assumptions underlying it concerning traffic at the 14 intersections analyzed were improper. Further, there was no objective criteria used to determine whether future operations at the CIN properties, including the resumption of gaming, would in fact result in increased traffic, and therefore further study of potential adverse impacts on air quality is required.

In fact, the BIA, as part of a programmatic DEIS, should require that periodic traffic studies be undertaken following the re-establishment of gaming operations (if the CIN Applications are granted). At a minimum, the DEIS should require as a mitigation measure that traffic studies at CIN's expense be undertaken periodically (minimally every two years) after gaming is re-established to determine the nature and extent of any impacts from any increase in traffic. Depending on the outcome of such studies, CIN should be required to make appropriate improvements and upgrades to intersections and other areas impacted by traffic including, based upon applicable New York State Department of Transportation standards. See NYS Department of Transportation Handbook "Public/Private Financing of Road Improvements," Section E at p. 7-10.

Further, the air quality analysis fails to address that air quality is significantly compromised in areas of certain CIN properties, including reports that air quality in the area of State Route 89 and Garden Street Extension in Seneca Falls are among the "worst five percent nationally for health risk from industrial air pollution." See Exhibit "B" to the Counties March 19, 2009 Comment Letter (Counties' Comment Memorandum dated March 14, 2006 and the Exhibits thereto (and the attachment thereto which is the February 10, 2006 Counties Comment Letter at p. 16 at Exhibit "J"). The fact that the air quality in the Seneca Falls area including in proximity to the CIN parcels is already compromised was recently reaffirmed with the publication in *USA Today* of air quality data from 2002 that confirm the poor quality of the air in proximity to the CIN properties including in Seneca Falls, New York (attached hereto as Exhibit "D").

Similarly, the DEIS fails to address the February 10, 2006 O'Brien & Gere Report which concludes that the Nation under applicable regulations should be prohibited during a significant portion of the year from selling or supplying gasoline having a vapor pressure on the Reid's Scale greater than 9 lbs per square inch (N.Y.C.R.R. Part 225-3.3) in order to reduce harmful emissions, yet no analysis whatsoever is undertaken of that issue. See Exhibit "D" attached to the Counties March 19, 2009 Comment Letter (the O'Brien & Gere Report at pp. 20).

Further, because the CIN properties will not be subject to local, County or State regulations including New York State's Title V Air Permitting Program, the potential impact of open burning on CIN's Properties should have been evaluated under the circumstances.

G. Hazardous materials/petroleum storage.

If the CIN Applications are granted and the preferred alternative or the Enterprise Alternative is selected, CIN operations in the CIN Seneca Falls and CIN Union Springs properties that store, handle and distribute petroleum and/or hazardous substances will continue, but will be exempted from local, County and State laws and regulations for such materials. Thus, among other regulations that will not be enforced regarding activities undertaken on the CIN properties include Article 12 of the New York State Navigation Law (regarding the discharge of petroleum) and the New York State Bulk Petroleum Regulations (6 N.Y.C.R.R. Parts 595-599, 610, 612-614). A comprehensive list of the state regulations which would no

longer apply to CIN properties concerning petroleum storage and hazardous substances the Counties' March 19, 2009 Comment Letter at Exhibit "D" (the Report of O'Brien and Gere dated February, 2006 at pp. 7-10) (Attached as Appendix "J" to the DEIS).

In addition to petroleum handling and storage regulations that would no longer apply, a host of regulations regarding other toxic or hazardous materials including hazardous substances and pesticides would similarly no longer apply to the CIN properties. Id. The substantial negative impact of the removal of the State and the Counties to regulate the storage, use and distribution of petroleum is even more pronounced given that the DEIS documents that current operations undertaken on the CIN Properties violate State and Federal regulations.

In fact, the Phase I ESAs for the CIN properties identified the following recognized environmental conditions, each of which highlights the negative effects associated with the current operations at the CIN properties.

SENECA FALLS GASOLINE STATION AND CONVENIENCE STORE:

- Repair activities at the boat repair building are likely to have included motor tune-ups, use of fluids, gasoline, motor oil and general maintenance and improper handling or dumping of such materials may have resulted in releases to soils and groundwater at the property.
- Interviews with knowledgeable site personnel indicate that herbicides and pesticides are applied to the site and the mowed areas on an "as needed" basis which "may effect shallow soil and surface waters at the site."
- Registration for the current underground storage tanks (which apparently include the 10,000 gallon tank for regular unleaded gasoline, a 5,000 gallon tank for super unleaded gasoline).
- No evidence that the foregoing USTs are complying with secondary containment requirements, although there is a reference to certain leak detection systems not indicating current leaks.
- Historic uses of the referenced property including an auto dealership and gasoline filling station. In addition, previous underground storage tanks were removed and replaced in 1992.
- Undocumented spills could have contaminated soil and groundwater beneath the site

UNION SPRINGS GASOLINE STATION AND CONVENIENCE STORE:

- The current and past use of the referenced property is a gasoline filling station could potentially have caused a release of petroleum contamination to soil or groundwater.
- Registration for the current USTs was not up-to-date with the DEC. There is no documentation for maintenance, leak detection, fluid measurement records, or closure sampling related to the former underground tanks or activities of the former site building. Current UST capacity appears to include at the least two 5,000 gallon USTs apparently containing gasoline, another 10,000 UST and one 3,000 kerosene UST.
- Previous spills located on the referenced property as well as adjacent properties including spills which occurred in 2000 and 2001.⁵

Thus, the DEIS documents current ongoing violations associated with the underground storage tank facilities and other facilities on the CIN Seneca Falls and Union Springs parcels.

Moreover, it should be noted that the New York State Department of Environmental Conservation (“DEC”) has recently reopened several previously investigated spill sites across New York State due to concerns from the adverse health effects from vapor intrusion into occupied structures from contaminated soils and groundwater. In fact, one of the sites DEC is investigating (as discussed previously) is located in Cayuga County in proximity to the CIN Union Springs Property (and is known as the “Cayuga County Groundwater Contamination Site,” Federal NPL No. NYN000204289). As a result, additional investigation of the CIN Properties is required to address vapor intrusion concerns. The New York State Department of Health (“DOH”) has promulgated guidance regarding owners of sites subject to spills to address potential vapor intrusion, because of the potential human health impacts from it. The DOH guidance requires remedial actions be taken if there is a potential that vapor intrusion from spills of volatile organic compounds and other contaminants could migrate through soils into occupied properties thereby adversely affecting the air quality of occupied structures. Given the history of spills on CIN Properties, and the failure to comply with various regulations, a rigorous evaluation of the potential for vapor intrusion must be undertaken.

As discussed, the Department of the Interior’s own guidance requires that for any action which contemplates the conveyance of property, it is critical for BIA to identify the potential for

⁵ Please note that there is a mistake in the DEIS as well as in the April 2009 Phase I ESA for the Union Springs Parcel regarding 299 Cayuga Street wherein it references the “Union Springs Mobil” at Route 326 and Route 90 where previous spills occurred as a site separate from the Union Springs Gas Station Property. In fact, based upon an interview with a former site owner, the Union Springs Mobil station was not north or northeast of 299/303 Cayuga Street, but rather, the Union Springs Mobil site was at the same location as the Union Springs LakeSide Trading current operations at 299 Cayuga Street. Thus, the spills stated to have occurred at Union Springs Mobile actually occurred on or near the Union Springs LakeSide Trading parcel containing gasoline station operations.

liability to be imposed on the United States for cleanup or other damages associated with such property if the conveyance occurs.⁶ The Department of Interior's Manual entitled "Real Property pre-Acquisition Environmental Assessments," 602 DM 2 should have been specifically referenced in the DEIS, as the standards therein require the evaluation of each such parcel in order to determine whether off-site impacts have occurred, and the potential for liability to the United States if the CIN Applications are granted. No such analysis was undertaken despite evidence of on-site and off-site impacts from the CIN Properties and the fact that numerous comments identified that issue during the scoping period.

H. Noise impact analysis.

The DEIS's noise impacts analysis was focused on expected noise from traffic. The DEIS takes the position that no changes will be made to current operations, and thus any impacts will be based on the status quo, with the exception of the resumption of gaming was previously terminated in 2005, but which CIN states will be restored to the same level as 2005. As a result, the DEIS essentially undertakes no meaningful analysis to determine what potential impact would result from the CIN Applications. At a minimum, the DEIS is required to assess potential traffic impacts associated with CIN reinstating its gaming operations which have not been operated for approximately four years together with impacts from the continuing use of CIN's other businesses.

In fact, rather than undertake an analysis of potential traffic impacts from granting the CIN Applications, the DEIS simply reviewed current traffic conditions and added in a multiplier based on a report that is more than seven years old, and based on operations associated with casinos. The DEIS made no attempt to determine what impacts might be anticipated from re-establishing gaming activities based on past experience in the community. At a minimum, the DEIS should have analyzed traffic conditions that existed in 2005 when gaming was being operated by CIN. The DEIS should have evaluated traffic conditions associated with CIN's previous gaming operations by interviewing knowledgeable witnesses including the Counties' Police personnel and emergency service providers and others to properly assess potential traffic impacts of re-establishing such operations. As a result, under applicable standards, the so-called analysis undertaken in the DEIS for traffic was facially insufficient. As it has been at least four years since gaming occurred, a competent analysis would have examined what increases in traffic may occur from resuming such operations, even if those operations were resumed at the exact same level as were previously undertaken by CIN. Thus, the traffic analysis should have examined these issues and specifically analyzed traffic conditions from 2005 (or attempted to recreate 2005 conditions), and then factored in potential increases based upon the inevitable expansion of those operations.

⁶ Indeed, based upon the Phase I ESAs, it is clear that current operations on the CIN LakeSide Trading parcels as well as at the LakeSide Entertainment parcels located in Seneca Falls and in Union Springs, including those associated with the gasoline filling stations are in violation of not only state law, but federal law under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*

Further, as CIN will undoubtedly expand its current operations and will also undoubtedly develop the CIN Properties which are not currently developed, a traffic analysis should have been undertaken based on reasonable build out scenarios (i.e., build out of vacant parcels as well as expansion of the gas station and convenience store operations, further expansion of Class II gaming, etc.) and should have evaluated the likely build out scenarios on the undeveloped CIN Properties.⁷

I. Vegetation and Wildlife Resources.

The DEIS identifies numerous plant species and habitats, as well as wildlife resources that are impacted or potentially impacted by the CIN Applications. Rather than performing an objective analysis of those potential impacts, the DEIS defers, if not ignores them by concluding that as “only” current operations will be continued, no impacts are anticipated. This kind of analysis misses the critical NEPA requirement that the DEIS undertake a hard look analysis of potential impacts.

Concerning the CIN Seneca Falls Property, the DEIS finds that immediately west of the subject property and bordering that site is a wooded wetland (DEIS at p. 3.2-2), and further concludes that such wetland “contributes to the habitat value of the subject property.” Moreover, the DEIS confirms that the inspection of the CIN Seneca Falls Property shows that a scrub-shrub, deciduous temporary flooded wetland is found on that property, but despite these findings, no analysis is made as to how to mitigate future impacts from potential development activities. As discussed, given the observations made regarding the CIN Seneca Falls Property, delineation of the wetlands contained thereon is required particularly in light of the vegetation and wildlife resources identified, but no such delineation was undertaken.

Similarly, the CIN vacant Union Springs Property, contains a unique resource which includes two open water pond areas (DEIS at p. 3.2-3). Based upon the location of the former quarry ponds, and the unique environmental setting of same, it is very likely that such ponds are a habitat for endangered or threatened species including certain turtles and other species (See Cayuga County Supplemental Volume submitted with the Counties March 19, 2009 Comment Letter and found at Appendix “J” to the DEIS). As a result, DEIS is required to analyze the potential impact of CIN’s operations and/or further build out on the Vacant Union Springs Property. Further, the Vacant Union Springs Property also contains deciduous forested habitat. As such, further investigation of that property including wetland delineation is required as well as identifying measures to mitigate impacts to such areas from the development of the Union Springs Property.

⁷ As noted in Exhibit “A,” one of the documents BIA has failed to provide is a document described as CIN’s four year plan which is referenced in the DEIS, but omitted. DEIS at p. 4.8-2. It is believed that this four year plan, together with interviews with CIN members, would aid in identifying likely buildout scenarios by CIN, but this critical information is omitted from the DEIS.

Regarding the Springport Property, the DEIS identifies that property as being located immediately to the west of certain wetlands (DEIS at p. 3.2-4) and further states that a small portion of the mapped scrub-shrub wetlands extend into the "western edge" of the Springport property itself. Nevertheless, the DEIS concludes that no delineation is required, because it finds that the Springport Property has been cleared of vegetation and maintained as a lawn for sometime. In fact, under applicable standards, that wetlands have been mowed or otherwise developed does not allow a property owner to avoid wetland delineation, particularly where as here, future development is all but assured.

With reference to the Montezuma Property, the DEIS excuses the failure to delineate wetlands because the Montezuma property is small, but the DEIS concedes that the Montezuma property is in proximity to wetlands as well as being adjacent to a renowned natural preservation area (DEIS at p. 3.2-5). The DEIS concludes that no delineation is required but, given the proximity of such property to wetlands, and to a regionally recognized preservation area, further investigation and delineation of wetlands is required.

J. Wildlife resources.

Consistent with the other components of the DEIS, the wildlife resources analysis undertaken identifies various potential wildlife resources, including animal and plant species associated with the CIN properties, but then fails to analyze impacts from CIN's current operations on the resources identified.

Thus, while the DEIS notes that the Seneca Falls Property: "has low value for wildlife;" it nevertheless, concludes that certain wetlands species, including the Green Frog, Raccoon and Spring Peeper utilize the adjacent wetlands and traverse portions of the CIN Seneca Falls Property as part of their home ranges. As a result, further investigation is required in order to detail the potential impacts to that wildlife. Indeed, even if the foregoing are not "threatened or endangered," those species may very well fall under the category of species of special concern under New York law (6 N.Y.C.R.R. Part 182.2[i]).

Further, given that granting CIN's Applications will remove any protections under State law provided to such species, it is incumbent that the DEIS investigate and determine whether such species located on the Seneca Falls Property are species of special concern. Moreover, as discussed in the context of other local county and State regulations, at a minimum the DEIS must include an analysis of what the impact of enforcement of applicable federal law would have on the wildlife resources at issue and whether protection will be provided.

Concerning the Vacant Union Springs Property, the DEIS documents that certain wetland dependent animals are expected to frequent that property, including the Yellow Warbler and the Red-Bellied Woodpecker and Eastern Wood Peewee, which each use the area of the Union Springs property as a nesting location. The DEIS concludes that those species are common as well as others identified (Bull Frog, Snapping Turtle and Herons); however, as set forth above, such species may very well fall into the category of species of special concern. Because the

referenced species may be of special concern, further investigation to determine if the potential impacts of current operations and future operations at the CIN Union Springs Property is required here.

K. Threatened and endangered species.

As with the DEIS's treatment of wildlife resources, the DEIS identifies the potential impacts to threatened or endangered species, but fails to analyze those effects.

Thus, the DEIS notes that the Seneca Falls Property: contains "no endangered or threatened" species. However, the DEIS also states that the Seneca Falls Property has the potential for threatened or endangered species to be located on it, including the Imperial Moth. Further, the DEIS finds that the Water Fowl Winter Concentration Area is known to occur in the vicinity of that property, but nevertheless concludes that neither the Imperial Moth, nor the resource area are protected under New York Law. For the reasons set forth previously, including the special protections provided by the State of New York to not only threatened and endangered species, but species of special concern, further investigation is required.

In addition, with regard to the Vacant Union Springs Property, the National Heritage Program has indicated that one threatened plant species, the Handsome Sedge is known to occur in the vicinity of that property. The DEIS concludes there is "no recent information supporting the continued occurrence of the Handsome Sedge," but since the DEIS indicates that the Handsome Sedge may occur in that area, further investigation is required. Similarly, with regard to the Springport Property, the Straight-Leaf Pond Weed and the Water Fowl Winter Concentration Area (as discussed above) are reported to be located in the vicinity of that property; as such, investigation of that species is required. It has also been noted that the Handsome Sedge may find CIN's Springport Property suitable habitat. Moreover, as the Straight-Leaf Pond Weed (listed as a N.Y.S. Endangered Species) prefers calcereous pond edges, such as those found in the pond and depression areas located on Union Springs Vacant Property, further investigation of the impacts or potential impacts to that species.

Similarly, with regard to the Montezuma Property an endangered plant species known as the Button Bush Dodder, was identified as potentially located there but according to the DEIS, that species was not observed "during the site inspection." Depending on the time of the year of the site inspection, and other factors, that species may not have been able to be observed, and therefore further investigation is required. Furthermore, as an inland salt marsh area occurs in the vicinity of the Montezuma Property, further research needs to be undertaken to delineate same, as well as to identify mitigation measures associated with that habitat.

L. Cultural resources.

Consistent with the other components of the DEIS concerning numerous potential effects or actual adverse effects to cultural resources are identified by the DEIS. In fact, despite findings of potential impacts to cultural resources, the DEIS fails to complete necessary analyses and investigations of such resources and the potential for negative effects on same, and it fails to identify appropriate mitigation measures. As indicated previously, various documents and information have been withheld from the DEIS, including the field notes and inspection reports for the cultural resources and archeological inspections. As such, the DEIS's conclusion that most of the resources identified, including historic structures, are not visible from CIN Properties cannot be evaluated without the underlying documentation, including inspection reports and field notes.⁸

Further, in response to comments to the DEIS, the DEIS includes reference to an important cultural resource known as the Ferry Farm which includes a cobblestone house and other significant features. The Ferry Farm is important because of its role in the Underground Railroad. The DEIS finds that the CIN Seneca Falls Property is merely .2 miles northeast of the Ferry Farm, yet the DEIS concludes (apparently based upon field notes and information not provided) that the Ferry Farm is not visible from CIN's Seneca Falls Property. There is no determination as to whether the CIN Seneca Falls Property is visible from the Ferry Farm and thereby adversely impact that latter.

Furthermore, in concluding that there is no adverse effect to the Ferry Farm, the DEIS finds that the Ferry Farm is "separated" from the CIN Seneca Falls Property by Route 89 by commercial properties and a portion of the Cayuga Lake State Park. However, given that the Ferry Farm is only two-tenths of a mile away from the CIN Properties, further evaluation is required to determine whether such resources are impacted by the CIN Properties.

Moreover, the DEIS does not identify or analyze impacts to another property on the National Register, which is the Cobblestone Winery (the former Sohan Property) located on Route 89 in the Town of Varick. It is believed that each of these structures is on the National Register, or is in the process of being added, and is therefore eligible. Impacts to that resource must be evaluated.

M. Archeological impacts.

The DEIS's archeological resources analysis identifies negative effects and potential negative effects from granting of the CIN Applications, but fails to analyze same as required by NEPA, and fails to identify mitigation measures.

⁸ In an amendment to the DEIS released in May, the DEIS now includes a reference to such field inspections for cultural and natural resources stating: "all observations" regarding such resources are included in the DEIS; however, if that is the case, then there is every reason to produce the field notes as they should confirm the conclusions made.

For example, the CIN Properties located in Union Springs, Springport and Montezuma are located in areas deemed to be archeologically sensitive (based upon the proximity of those properties to among other areas, the Seneca River Crossing Canals Historic District and the Montezuma National Wildlife Refuge), but the DEIS concludes no further investigation is necessary. The DEIS's conclusion that no investigation is necessary because there is no current plan for development, but this is simply not the standard when analyzing such resources and the potential impact to them. In fact, based on the DEIS's findings, further investigation is necessary, including at least potentially conducting a Phase I Archeological Study. Indeed, such a study is required even more so here given the current operations on the CIN Properties, and the fact that it is all but inevitable that the CIN Properties will be developed, or further developed.

Further, reference is made in the DEIS to the fact that there has been some disturbance on the CIN Properties located in the archeologically sensitive areas, and that due to such disturbance, no further archeological investigation is required. Under applicable standards, CIN cannot avoid further investigation of potential archeological resources simply because properties were previously disturbed.

N. Socioeconomic impacts.

The DEIS's analysis of socioeconomic impacts omits critical information, fails to acknowledge (let alone analyze), significant issues identified during the scoping phase, makes invalid assumptions and proceeds from numerous false premises to arrive at its conclusions. For example, despite the thoughtful analysis provided during the scoping phase by Professor Ian Ayres who concludes that the socioeconomic impact of the operation of CIN businesses on non-Indian residents of the County was likely dramatic, the DEIS fails to even acknowledge that such important analysis need be undertaken, let alone perform same as was required by NEPA.

In addition to failing to analyze important significant adverse effects arising from the operation of CIN business, the DEIS compounds its erroneous economic analysis by claiming that the Counties as well as the State will realize substantial economic benefits if the CIN Applications are granted and the preferred alternative is selected. In sum, the DEIS proclaims that the Counties collectively will benefit in the amount of \$4.2 Million in overall positive economic impact per year if all of the CIN Properties are taken into trust, and that the State economy will benefit in the amount \$7.5 Million annually under that scenario. As set forth in Dr. Ayres July 2, 2009 Report, the underlying assumptions made by the DEIS regarding these economic analyses are fundamentally flawed, and fail to take into account the significant adverse socioeconomic impacts associated with the operation of CIN business, including adverse effects arising from the failure to collect sales taxes.

Further, despite several requests, basic underlying information relating to the analysis set forth in the DEIS and on which its conclusions are based were not provided. See Exhibit "A" attached hereto. In short, the Counties have requested repeatedly that the underlying information on which the forecast of substantial economic gains are made be provided, including the data which demonstrates that CIN is purchasing goods and services within the Counties and within

the State. The data previously requested by the Counties goes to the heart of the DEIS's claims that substantial economic benefits will be realized, BIA nonetheless refuses to provide such information despite the fact that NEPA specifically requires that such underlying data be provided without exception. 40 C.F.R. §§1502.8, 1502.21. Professor Ayres July 2, 2009 Report confirms that without providing the data requested by the Counties, it is impossible to determine whether the DEIS's economic analysis is valid, including its conclusions regarding economic benefits.

THE DEIS FAILS TO ANALYZE THE SIGNIFICANT
ADVERSE IMPACTS ASSOCIATED WITH THE LOSS OF
PROPERTY TAXES AND SALES TAXES.

The DEIS acknowledges the undisputed impact that taking the CIN Properties into trust would have on the Counties, school districts and other providers of community services as CIN would continue to use such services, but no longer share in the cost of paying for them. The DEIS downplays the impact associated with CIN's failure to pay its share of such assessments and taxes by concluding that the relative decrease in taxes and special assessments from granting the CIN Applications will be small. The DEIS also downplays such negative impacts because it reports that CIN will attempt to enter into agreements with the Counties and other service providers to make some sort of payments. The undisputed facts demonstrate that the DEIS has significantly underestimated the effect that tax exempt status will have on the ability of the Counties and localities to provide required services and infrastructure as well as failing to assess the impact of CIN's failure to collect sales tax. Moreover, the unspecified claim in the DEIS that CIN will enter into undefined agreements does not address the significant fiscal and economic impact identified.

In fact, it should be noted that the DEIS's continued statement that CIN will enter into agreements with municipalities and/or the counties to pay property taxes and assessments rings hollow. Although the CIN Applications were filed more than four years ago, CIN has never made any attempt to offer to pay for community services and infrastructure which it will continue to use even after the CIN Applications are granted. Indeed, it is BIA's policy for certain land and trust applications that the applicant must enter into agreements to reimburse localities for lost property taxes and special assessments as a condition to BIA's granting such applications. See "Guidance on taking off-reservation land into trust for gaming purposes," dated January 3, 2008. BIA's Guidance should apply to the CIN Applications here, where the Counties and the localities at issue are already struggling to provide services and to hold the line on property taxes. (It should be noted that while the January 3, 2008 BIA Guidance referenced applies to "off-reservation lands" and the BIA contends that the CIN Applications concern on-reservation property, the Counties disagree with such assessment. Further, even if the Guidance is applied to off-reservation trust applications, it should nonetheless be applied to "on-reservation" applications such as the one presented by the CIN here.) In addition, any claim by CIN that the impact of the CIN lands taken into trust will be relatively small in terms of lost

property taxes and assessments misses the point, as it does not take into account the synergistic affect presented by sales taxes and property taxes in New York State.

In short, Cayuga County and Seneca County, as well as other municipalities in New York State utilize property taxes and sales taxes to pay for needed community services, including emergency services, policing and other services to maintain roads and other infrastructure. These local communities rely not only on the property taxes, but also rely on their share of sales taxes remitted to them. As set forth in detail in the data discussed in more detail below, sales tax revenues account for a significant portion of the funds used by the Counties to provide infrastructure and services. In fact, the latest figures show sales tax revenues account for over 16% of the total funds available in Cayuga County to provide necessary services and infrastructure and sales tax revenues account for some 39% of that total for Seneca County. Exhibits “E”-“F” The impact of the failure to pay property taxes is increased exponentially if the CIN Properties are taken into trust and CIN businesses continue to operate but they fail to collect and remit sales taxes. See Attached hereto as “E” and “F” Memoranda prepared by Cayuga and Seneca County officials verifying that the impact of taking CIN Properties into trust is magnified by the loss of sales taxes associated with the CIN businesses continuing to operate if it is determined that such businesses will continue not to charge and remit sales taxes.⁹

The DEIS also fails to take into account the cumulative impact of future CIN Applications to place lands into trust. The DEIS excuses its failure to assess this cumulative impact stating that information regarding other property owned by CIN is not available, but this is simply not true. First, CIN has stated publicly that it intends on acquiring up to all of its original 64,000 acre claim area, and it plans to place those properties into trust. Further, CIN has purchased hundreds of acres of additional properties in Seneca and Cayuga County and as can be seen from the attached Exhibit “G,” (information from the Assessors’ Offices for the Counties including charts documenting impacts based on lost property taxes should CIN make future land into trust applications, as it has pronounced it would). As shown in Exhibit “G” if the current properties owned by CIN in Seneca County and Cayuga County are taken into trust, property tax losses (not including school taxes, special use districts and the like) would be nearly \$77,000 in Seneca County and approximately \$114,000 in Cayuga County. Moreover, if CIN acquires property throughout the entire alleged claim area located in Seneca County and Cayuga County and such property was taken into trust, the losses in property taxes alone would amount to more than \$10,000,000 in Seneca County and nearly \$12,000,000 in Cayuga County—needless to say the effects of such losses on the Counties would be catastrophic.

In addition, when the DEIS analyzes the current property taxes being paid by the CIN Properties to be taken into trust, it fails to analyze the critical development potential of those properties. For example, the DEIS should analyze the impact that imposition of sovereign status

⁹ It is for this reason that the Counties have requested that the CIN Land into Trust Application process be stayed by BIA pending a final determination from New York State Courts regarding whether CIN businesses may continue not to charge and remit sales taxes. See Exhibit “A” request that the CIN Applications be stayed and that the NEPA process be suspended. BIA summarily denied the request without responding to any of the substantive issues raised.

will have on the ability of the localities to regulate the development of the CIN Properties in accordance with local zoning and comprehensive plans, but should also analyze the lost tax and assessment revenue that would have been realized had such properties been developed in accordance with local land use plans and regulations.

Further, it should be noted that the DEIS relies on the use of a model known as IMPLAN in reaching its conclusions of substantial economic benefits for the Counties and the State of New York. See DEIS Table 4.8-4 (at page 4.8-10). In order to evaluate whether in fact the IMPLAN model has been properly utilized and the assumption made regarding the economic data at issue are correct and were used in accordance with accepted principles, the Counties requested in accordance with NEPA requirements that the data compilations or other documents used in conjunction with the IMPLAN model to generate the information and conclusions in the DEIS be provided, but again BIA has failed and refused to make such data available. See Exhibit "A" attached hereto.

It should be noted that according to several published reports, CIN has purchased several hundred acres of other properties in Cayuga and Seneca Counties (not subject to the present CIN Applications) at prices that are several times more than assessed value. Several negative effects result from such purchases, including artificially raising the assessments of neighboring properties when re-assessment is undertaken by the municipality at issue. The negative impact of artificially inflating such neighboring property assessments will be exacerbated if CIN makes good on its pronouncements and it applies to have such additional properties taken into trust. The DEIS should evaluate the impact from these purchases by CIN above assessed value, and the ramifications of them.

THE DEVASTATING IMPACT OF CIN'S FAILURE TO COLLECT SALES TAXES ON NON-CIN BUSINESSES AND ON THE COUNTIES

As set forth in Exhibit "H" attached hereto, in addition to the potentially catastrophic negative environmental impact on the Counties and the State as well as the localities from the CIN businesses failing to charge and collect sales taxes, the competitive advantage enjoyed by the CIN businesses has also had significant adverse impacts on other businesses which must charge sales taxes. Exhibit "H" is a chart provided by a local convenience store operation and it shows the sales made by several stores located in Seneca Falls and in Montezuma when the CIN businesses stopped selling cigarettes (and for a time did not operate at all) after the cigarette seizures. As can be seen from Exhibit "H", the impact of CIN tax-free sales on non-CIN businesses are substantial. The significant competitive advantage employed by CIN has caused stores competing with the CIN businesses to decrease operations and in some cases may cause such businesses to fail altogether. For example, sales of cigarettes in the non-CIN stores in Seneca Falls when cigarettes were seized from CIN skyrocketed nearly 30%, and concomitantly fell when CIN cigarette sales resumes for a short period in late January and early February of 2009.

Similarly, reports from other convenience store operations including those made during the recent DEIS Public Hearing on June 11, 2009 and those made during the DEIS Public Comment Period indicate that sales at stores operated in Port Byron, Weedsport and Groton were up between 20% and 40% when the CIN businesses were not operating or at least not selling cigarettes, and similarly stores located in Moravia, Montezuma and Seneca Falls rose between 34% and 40% for that period. Thus, it is expected that the CIN businesses regularly depress the sale of cigarettes and other goods and services on which sales taxes are required to be collected in the range of 30% or more within each of the Counties. In conclusion, the information provided demonstrates that but for tax free sales by CIN the Counties would see substantially more sales tax revenues—revenues the Counties need to pay for necessary public services and infrastructure. The impact to the Counties of the loss of such sales must be addressed in the DEIS.

O. Alleged positive impacts based on granting of the CIN Application.

As previously stated, the DEIS touts the substantial economic benefits allegedly associated with the granting of the CIN Applications and taking all of the CIN Properties into trust under the preferred alternative. The basis for the DEIS's claim that granting the CIN Applications will have significant benefits to the State and Counties is based in part on the alleged benefits associated with CIN businesses re-establishing gaming operations, as well as continuing operations of its convenient stores and gasoline filling operations in Seneca Falls and Union Springs. As set forth in detail in the scoping comments provided by Professor Ayers previously, as well as the July 2, 2009 Report of Professor Ayres, the economic benefit analysis contained in DEIS is fundamentally flawed and fails to take into account the negative impacts as outlined in the previous section of this comment letter. Moreover, for the reasons state previously, the absence of critical information from the DEIS makes it impossible to evaluate the accuracy of many of the assertions made regarding the alleged economic benefits associated with granting the CIN Applications.

The other fallacy contained in the DEIS's analysis of economic impacts is that many if not most of the jobs associated with the operation of the non-gaming CIN businesses, including those associated with the gas station operation were already in place prior to CIN's purchase of those operations. Indeed, in the land use sections of the DEIS, the DEIS takes pains in pointing out that the gasoline as well as convenience store operations conducted by CIN in Seneca Falls and Union Springs were preexisting uses. DEIS at pp. 3.11-6 and 3.11-7. As such, any employment associated with the CIN businesses particularly as they relate to the gasoline station operations and the convenience store operation must be discounted by the number of persons employed at those establishments prior to the purchase of them by CIN. In short, the DEIS's economic analysis is flawed to the extent it assumes that CIN added jobs, when such persons were previously employed by businesses that were operating before CIN purchased them.

The DEIS also fails to analyze negative impacts associated with the reestablishment of Class II gaming on not-for-profit businesses. Further, the DEIS fails to acknowledge that numerous studies have been undertaken which show that the introduction of gaming actually has

substantial economic costs apart from the negative social consequences associated with gaming (including gaming addiction, crime etc.). See Grinols, Earl L and David B. Mustard, "Business Profitability Versus Social Profitability: Evaluating Industries with Externalities, The Case of the Casinos," Managerial Decision Economics 2001:143-162; Grinols Earl L, David B. Mustard and Cynthia Hunt Dilley "Casinos Crime and Community Cost" June 2000; and Grinols Earl L, Gambling in America Costs and Benefits, New York: Cambridge University Press, 2004 (also see the studies cited in the Counties March 19, 2009 Comment Letter attached as Exhibit "B" thereto (as part of the Counties March, 2006 scoping comments which are each attached as Exhibit "J" to the DEIS).

P. Community Infrastructure and Community Services Impacts.

The DEIS acknowledges that CIN Properties will continue to use community infrastructure and services even after the properties are taken into trust, but there is no analysis whatsoever as to what impact the communities at issue will suffer when CIN ceases to pay property taxes and other assessments used to maintain roads and other infrastructure that it will continue to use.

Specifically, there is no attempt to analyze the likely property tax and assessment increases faced by other residents when the number of properties from which those taxes and assessments decrease if the CIN Applications are granted, but the demand for such services and infrastructure continues to increase with CIN's continued operations. Further, because the DEIS utilizes flawed assumption to analyze traffic and other impacts, the impact on policing and emergency services is not properly assessed. In fact, as identified in comments previously provided by the Counties, the services provided by the Counties and the State of New York including policing associated with the roads in and around the CIN businesses are significant. Indeed, the Counties' police professionals anticipate that the demand for services on the roadways and area adjacent to the CIN Properties when Class II gambling is reestablished will have significant impacts on such services, and will require the employment of a substantial number of additional police officers, and the use of additional emergency services. See the Counties March 19, 2009 Comment Letter at Exhibits "F" and "G" (Letters dated October 12 and October 13, 2006 from Seneca County and Cayuga County respectively documenting analyses by Seneca County and Cayuga County police professionals that 911 calls for the CIN Properties are inordinately high, and finding that the reestablishment of Class II gaming will cause additional demand on police and other emergency services) (attached as Appendix J to the DEIS.)

The DEIS fails to analyze impacts on emergency service providers. For example, emergency first responders would be in a particularly difficult position with no written agreement by CIN to provide its share of the cost of providing such services. As a result, emergency service providers may very well be obligated to respond to areas that include CIN Properties depending on where an emergency occurs, and whether it occurs on and partially off the site of a CIN Property. Further, issues such as how community first responders including

those associated with the hazardous materials teams and others in the event of a catastrophic failure of a delivery of gasoline to the CIN gas station facilities is not addressed.¹⁰

Moreover, the analysis of the amounts paid to municipalities special districts and service providers is particularly important, given the inevitable expansion and development of the CIN Properties (as such expansion and development is implicit in CIN's Applications). This impact is substantial, given that CIN will not be contributing to defray the expenses of community infrastructure which CIN Properties will utilize to the detriment of other residents who will bear a disproportionate share of such infrastructure costs going forward. While there is mention of the CIN making efforts to enter into "agreements" with these communities concerning reimbursing same for the use of such services, without any requirement that same be implemented as a mitigation measure as part of the selected alternative, these statements are without value and do not mitigate the impacts.

Q. Public Health and Safety.

As discussed above, the impact to various emergency service providers from the granting and CIN Applications is significant. In sum, the potential impact to police services and other emergency services providers is substantial, particularly given the virtual certainty that development will occur on the undeveloped CIN parcels, and further development will occur on currently developed parcels. As detailed herein, impacts to the Counties by virtue of social services that must continue to be provided even absent reimbursement must be considered in the DEIS. In addition, the potential for expanding gaming operations, particularly in light of the OIN application in Madison and Oneida Counties, will undoubtedly significantly impact community's (and the region) infrastructure ranging from sewer services, fire services, increased costs associated with maintaining roads from increased traffic, and yet no analysis of such impacts is identified, let alone undertaken.

The DEIS fails to acknowledge, let alone analyze potential safety impacts associated with the CIN Properties no longer being subject to local, county and state regulations for health and safety. The fact that operations on the CIN Properties will not be subject to food safety regulations means that CIN may begin selling produce or other products from any of its properties without the benefit of inspections by County Health Department or other Health Department Personnel. This raises critical issues regarding possible illnesses to CIN members as well as other residents who potentially ingest unhealthy food. These kinds of regulations also apply to tobacco sales, and as CIN will not be required to register and not be required to have tax

¹⁰ It should be noted that there are errors in the reference to ambulance services in the DEIS (Section 3) as the nearest ambulance service to the Village of Union Springs is actually the Union Springs Volunteer Fire Department which provides ambulance services. The closest full time ambulance service is North Seneca Ambulance, Inc. (referred to in the section of the DEIS discussing the Town of Seneca Falls). In addition, the closest ambulance service with a full time staff is Rural Metro, Inc., Auburn, New York. There are similar errors regarding the Montezuma and Springport sections of the emergency services discussion under Section 3 (the full time and paid ambulance services closest to those locations are listed in this footnote, but there are other ambulance services provided in those communities by volunteers and/or through local fire departments).

stamps (if they are successful in the pending litigations), there will be no method to regulate sales of cigarettes to among others, minors. Further, as to the water and sewer supplies, even if CIN decides not to continue to use sewers and water services, there is the substantial potential that CIN operations could contaminate their own as well as other water supplies.

Moreover, if CIN plans on performing any farm irrigation or other farm activities on the CIN properties taken into trust (and there would be nothing preventing them from doing so given their sovereign status), this would again raise concerns regarding the potential for contamination. Similarly, with regard to farming, if CIN farms any of the CIN properties, it will undoubtedly continue to use pesticides in an unauthorized and illegal manner, which would adversely affect their neighbors. Furthermore, if CIN members relocate to the area, as demonstrated by the comments from the Seneca Falls School District, this will undoubtedly impact services, but those provided by the Counties' Health Departments, including child health and immunization services, as well as other social services provided by the Counties.

In addition to the impacts to other social services referenced herein, the New York State Bureau of Indian Affairs was consulted by applicable agencies from the Counties regarding continued services that must be provided by County agencies even after lands are taken into trust. In short, it would appear that there are continued obligations by social services agencies to provide services to persons residing on properties taken into trust, even though those properties (and the persons who reside on them) would not be bearing the cost of such services. In sum, if county social service providers are invited on site, many of the services provided by the Counties under several community health services programs including the Cayuga County's "Women, Infant and Children's" Program," the "Maternal and Child Health Program," the "Medicaid Obstetrical Maternal Services Program" and others are likely to be required to be provided to persons requesting services on CIN properties.

In addition, there are a series of environmental programs operated by the Counties which would be adversely affected by taking the lands into trust, in that such programs could not be properly administered. In short, as with regulations enforced by the State, unless the Counties are able to enforce regulations and programs on a county-wide basis, overall enforcement and compliance is detrimentally affected, and the affects are felt community-wide and not just on the properties taken into trust. Among other programs that the Health Department for the Counties will not be able to enforce and include the Clean Indoor Air Act ("CIAA") which prohibits smoking in public places including in the workplace.

In addition, the County Health Departments will not be able to enforce drinking water supply regulations including those found under N.Y.C.R.R. Title 10, Part 5 which regulates drinking water supplies; the implications of the failure of the County to enforce such regulations are easily seen and go beyond the CIN Properties and include the potential for county residents or others who visit such properties to be adversely affected.

Similarly, the Counties will be unable to enforce swimming pool and beach regulations, including those found at N.Y.C.R.R. Title 10, Parts 6-1 and 6.2 to ensure sanitary, healthful and

a safe environment for the public when using swimming pools and bathing beaches. Further, the Counties will be unable to enforce regulations regarding children's camps and temporary residences and campgrounds to ensure a sanitary, healthful and safe environment for the public when staying in hotels, motels and campgrounds. Similarly, regulations enacted to protect residents of mobile home parks will be unable to be enforced.

Moreover, general regulations to abate nuisances, under N.Y.C.R.R. Title 10, Part 8, will no longer be able to be enforced. In addition, regulations protecting persons against lead poisoning and rabies will not be able to be enforced by the Counties' Health Departments. Further, the Counties' Health Departments will be unable to enforce regulations regarding septic systems and the approval of realty subdivisions, and particularly subdivision approvals that relate to the determination that adequate sewage has been provided.

Further, there is similarly no substantive discussion in the DEIS of the potential negative social affects of gambling other than a statement indicating that persons will be made aware of the potential hazards of gambling. As set forth in the comments provided by the Counties in response to the BIA's request for information regarding impacts, studies and other information were provided to show the potential for increased crime and other negative impacts associated with gaming. See Exhibit "F" the Counties March 19, 2009 Comment Letter.

Further, there is also the failure to identify, let alone analyze, potential adverse impacts to the environment associated with the lack of any local or state control or regulation of the use of hunting and fishing licenses associated with the CIN Properties including to Cayuga Lake and other streams in the area. There is simply no analysis of the potential negative impacts associated with such unregulated hunting and fishing activities.

Further, the DEIS fails to analyze the impact of the failure of the properties to be taken into trust to meet any requirements under the New York State Agricultural and Markets Law to regulate commercial transactions involving sales by weight or measure and to maintain fair market practices and equity in all transactions. Currently, the "Seneca County Weights and Measures" Department works with CIN to enforce these requirements, but any such efforts to meet those requirements will no longer be undertaken if the land-into-trust applications are granted. There is no indication that the federal government can or will implement similar regulations under federal law.

R. *Zoning and comprehensive plans and the status of the CIN Properties purchased with proceeds from previous gaming operations.*

As detailed in the DEIS, several of the CIN Properties contain existing structures which violate, or are inconsistent with zoning and applicable comprehensive plans and other land use plans. Rather than identifying measures to mitigate the impact of the continued uses and the virtual certainty that such uses will be expanded, no measures are identified let alone analyzed.

For example, there can be no dispute that Union Springs applicable zoning regulations or land use plans prohibit the kinds of uses associated with the gasoline station and gaming operations (DEIS at p. 3.11-4 – 3.11-5). Further, the DEIS fails to acknowledge the fact that the Village of Union Spring has previously undertaken extensive measures to enforce its land use regulations for the CIN Union Springs Properties, including seeking to enforce those regulations by instituting an action against CIN gaming operations in Union Springs which prompted CIN to commence a Declaratory Judgment action in Federal District Court. Cayuga Indian Nation of New York v. Village of Union Springs, 317 F. Supp.2d 128 (N.D.N.Y. 2004). CIN prevailed in Federal District Court in seeking an injunction against the Village of Union Springs seeking to enforce its ordinance, but in light of the Supreme Court's decision in City of Sherrill, the District Court vacated its earlier injunction holding that: (i) the avoidance of the requirement to comply with local zoning and land use laws was even more disruptive than avoidance of taxation at issue in the City of Sherrill; and (ii) holding that the "strong language in City of Sherrill regarding the disruptive affect on the every day administration of state and local governments bars the Nation from asserting immunity from state and local zoning laws and regulations." Cayuga Indian Nation of New York v. Village of Union Springs, 390 F.Supp.2d 203, 206 (N.D.N.Y. 2005). In sum, the DEIS fails to analyze the impacts associated with the CIN businesses operation in Union Springs and the fact that the same are barred by local land use and zoning. See Exhibit "I" hereto a copy of the Letter of Village of Union Springs dated February 10, 2006 which is incorporated herein by reference.

Indeed, the DEIS fails to acknowledge that the local public high school and middle school is located just south of the gaming facility. There is no analysis as to whether a casino is "consistent with" this non-commercial educational use, which is sited less than 400 feet south of the gaming facility. The absence of any evaluation of the negative effects of a gaming parlor on the school and its student population is glaring, especially when it is readily foreseeable that the current facility will grow over time, if the land-in-trust applications are granted. Though it currently occupies only 1.48 acres, there is ample property available for unregulated expansion of the gaming operation on the adjoining undeveloped 108 acres in Union Springs that the Nation seeks to have taken into trust. In the same vein, the DEIS fails to analyze whether the gaming operation is "consistent with" the residential use of the property that lies across the street from the gaming parlor.

Similarly, the operations of the CIN businesses on the Seneca Falls Property are also not in compliance with local zoning and land use (DEIS at p. 3.11-6), but nevertheless the DEIS fails to evaluate the impacts associated with continued operation of CIN businesses. The DEIS further fails to include the inevitability of further CIN development on the properties at issue which are not in conformance with local land use regulations.

Further, as indicated in the DEIS, current CIN Properties contain any number of buildings and structures which are inconsistent with violate applicable zoning provisions and comprehensive plans. The unregulated development of the CIN Properties going forward which will inevitably occur will have a substantial negative impact on tourism and the development of

these communities as a whole, including potential development of tourist attractions. The impact of such unregulated development on Counties' the tourism industry (which is a critical economic driver for the Counties given that they are in the heart of the Finger Lakes a region renowned for its tourist attractions) is not evaluated. See the Union Springs Comprehensive Plan at the Exhibit "J" (documenting tourism land use plans including those focused on developing tourist attractions and businesses). Indeed, it is noted that the Village of Union Springs Comprehensive Plan dated 2007 (which has been available through the Cayuga County Planning Department) has not been identified or analyzed in the DEIS. (Attached as Exhibit "J".)

CIN points to its land use ordinance as providing protection for adjacent property owners. However, even a limited review of that ordinance shows that it provides little or no protection to persons living adjacent to CIN Properties. In fact, the CIN ordinance may apparently be amended at any time, or it may be withdrawn by CIN, and there is no indication that adjacent property owners can seek to have CIN enforce such ordinance. Indeed, because the CIN Properties will be treated as sovereign lands, adjacent property owners may suffer damages due to operations by CIN businesses and individuals will have no ability to redress those damages in State Courts.

In addition, the DEIS fails to evaluate the status of the CIN Properties to be taken into trust in light of the fact that those properties were purchased with profits made from illegal gaming activities as well as profits made from sales of goods and services on which sales tax was not collected despite law requiring the collection of such taxes. Under the circumstances, properties purchased with profits generated from illegal activities are subject to forfeiture under the Racketeer Influenced and Corrupt Organizations Act. 18 U.S.C.A. § 1962, et seq. Given the manner in which the CIN Properties were purchased and the operations which generated the funds to purchase such properties, the DEIS should evaluate whether the United States should take such properties into trust under the circumstances.

S. Traffic impacts.

The DEIS proceeds from the false premise that there were no traffic impacts associated with the CIN Properties previously, and as such, there will be none in the future. In fact, there is no attempt whatsoever to analyze any empirical data that would shed light on whether operations which last existed in 2005 (including CIN gaming operations) would have the same impact in terms of traffic once they are reinstated some four (4) years later. As such, the analysis undertaken in this section of the DEIS is invalid on its face and does not meet the applicable standards.

As discussed in the section regarding noise impacts (which are primarily driven by traffic under the DEIS's analysis) the DEIS's traffic analysis is also inadequate because the data used to identify additional trips that might be associated with the reestablishment of Class II gaming was based upon an outdated study. In addition to failing to analyze potential traffic impacts based on any objective criteria, the DEIS ignored the police professionals in Seneca and Cayuga Counties

based on their previous experience that the resumed gaming operations would cause increased traffic impacts.

Given the lack of empirical data analyzed in the DEIS regarding traffic impacts associated with the reestablishment of gaming operations, it is incumbent that the DEIS analyze the information provided by Seneca and Cayuga County police professionals. In fact, information provided to BIA's consultant by the Counties' police professionals show there were higher incidents of police calls for service due to among other issues, higher traffic volumes associated with previous gaming operations. Moreover, in responding to BIA's request for information in October, 2006, Seneca and Cayuga County police professionals concluded that higher levels of police and other services will be required when gaming is reestablished and when, it is inevitably expanded, but this information was ignored. See the Counties comment letter dated March 19, 2009 at Exhibits "F" and "G" (Counties letters to AKRF dated October 12 and October 13, 2006 documenting the analysis set forth previously attached as Appendix "J" to the DEIS.

T. Visual impacts.

As indicated previously, the site inspection notes and/or field notes associated with the historic and archeological resource reviews in the DEIS were not provided, so it is impossible for the Counties to determine whether in fact the data presented is accurate.

In any event, as indicated previously, because the DEIS proceeds from the false premise that the CIN Properties will not be developed or will not be further developed, the view-shed analysis undertaken is invalid on its face. As discussed, and as identified in the substantial scoping comments previously provided to BIA, NEPA requires that a visual assessment based on likely potential for future build-out scenarios be undertaken. Thus, in order to analyze visual impacts (as well as traffic and other critical impacts), reasonable build-out scenarios must be analyzed in the DEIS.

U. Cumulative impacts.

Despite comments made from the Counties and others, the DEIS fails to undertake the cumulative impacts analysis associated with the granting of the application by the Oneida Indian Nation ("OIN") for Madison and Oneida Counties. Madison and Oneida Counties are in close proximity to Cayuga and Seneca Counties and thus, the impacts associated with extensive gaming and other operations associated with the OIN application (should it be granted) must be evaluated in order to undertake a valid cumulative impacts analysis as required by NEPA.

Further, given the stated intent of CIN to make further applications for fee-to-trust transfers, the impact of taking the hundreds of additional acres of property controlled by CIN must be evaluated. The impact associated with the past and continued purchases of lands by CIN from the proceeds of businesses which failed to collect taxes in accordance with law or from proceeds which were derived from illegal gaming must also be evaluated.

V. Alternatives analysis and mitigation measures.


As discussed previously, no valid screening analysis was undertaken in the DEIS as required, and therefore, no alternatives other than the statutorily required no-action alternative as well as those alternatives favored by CIN are identified. There are a number of alternatives that have been suggested in comments by the Counties and others, but BIA has failed to acknowledge same, let alone analyze them.

Moreover, the DEIS fails to identify any mitigation measures despite the requirement to do so given the significant environmental effects identified in the DEIS. Indeed, the DEIS, rather than providing a rigorous analysis of environmental impacts, is apparently nothing more than a tool used by BIA to justify the granting of CIN's Applications. The mitigation measures previously identified, including those that could be adopted through legitimate alternatives, including a program of payments in lieu of taxes, and allowing the State and Counties to retain jurisdiction over certain regulatory matters relating to public health and the environment, etc. are not even acknowledged, let alone analyzed as required.

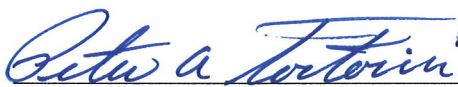
Mr. Franklin Keel, Director
July 2, 2009

Conclusion

For the foregoing reasons, the no action alternative should be selected, because it is the only alternative identified which mitigates the significant adverse environmental impacts presented by the CIN Applications. In the alternative, the BIA should stay any consideration of the CIN Applications pending the final disposition of significant legal challenges currently before New York Courts including whether CIN may sell goods and services to non-Indians without collecting sales taxes.



Suzanne Sinclair, County Manager
Seneca County



Peter Tortorici, Chairman
Cayuga County Legislature

JDP:cds

Enclosures

cc: Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.

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EXHIBIT-A

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June 9, 2009

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Re: NEPA Review of the Cayuga Indian Nation's Fee-to-Trust Applications:
Request for Information Needed to Make the Draft Environmental
Impact Statement Issued in May 2009 Complete

Dear Mr. Chandler:

We write as counsel to Seneca and Cayuga Counties (hereinafter the "Counties") regarding the above application. This letter serves as our second request to the Bureau of Indian Affairs ("BIA") to provide each report, study, underlying data compilation, or information in other form on which the DEIS relies with regard to certain statements and/or conclusions, but which was not provided in the text of the DEIS, nor included in the appendix to it.

By letter dated March 12, 2009 (an extra copy is attached hereto) the Counties previously requested that information omitted from the pre-publication draft DEIS be included in the publication draft of the DEIS; unfortunately, our review of the DEIS issued in May 2009 (the "May 2009 DEIS"), reveals that BIA has failed to make required information available, and therefore the May 2009 DEIS is incomplete, and the review of the DEIS required under NEPA and other applicable law cannot be completed until such information is made available.

A. Background: Information Cited in a NEPA DEIS Must be Made Available to the Public,
Yet the May 2009 DEIS Continues to Omit Critical Information

By way of background, under applicable regulations pursuant to NEPA and otherwise, including 40 C.F.R. §§ 1502.18, 1502.21, material referenced in the DEIS including factual data and other material is required to be provided with the appendix to the DEIS or otherwise made available. As set forth in detail in the Counties' March 12, 2009 letter, after reviewing the so-called pre-release or pre-publication DEIS, the Counties requested among other things, that the DEIS released to the public be supplemented with required information and documents, including but not limited to, various reports referenced therein including Phase I Environmental

Assessments undertaken on the proposed trust properties, as well as seeking the disclosure of other data and information summarized in the DEIS, but not provided, including information regarding socioeconomic impacts, and impacts regarding archeological and historic resources.

The DEIS as made available for public review on May 22, 2009 (and which was provided to the Counties during the second week of May), is still missing substantial information as required by NEPA. We note that while the May 2009 DEIS now includes several Phase I Environmental Site Assessments apparently considered by BIA, most of the critical information the Counties previously requested remains missing, including information and documents relied on for statements made and conclusions reached in the May 2009 DEIS.

Among other information missing from the May 2009 DEIS is critical data pertaining to conclusions contained in Section 3.8 entitled "Socioeconomic Conditions" as well as pertinent data referenced in Section 4.8 entitled "Socioeconomic Effects," including data omitted relating to alleged expenditures by CIN in the Counties and State of New York, as well as other information necessary for the public to evaluate whether the so-called IMPLAN model used in the May 2009 DEIS to support claims regarding positive socio-economic impact was properly utilized here, including whether the assumptions made, etc. are applicable to the Cayuga Indian Nation's land-into-trust applications.

B. The Statutory Authority Cited by BIA as the Basis for Withholding Critical Information to Which the Public is Entitled Does Not Apply Here

For the most part, BIA provides no basis for withholding the critical information previously identified from the public, but the May 2009 DEIS now asserts a Freedom of Information Law ("FOIA") exemption as the basis for withholding information and documents required to be made available pursuant to NEPA. In fact, the statutory provision and guidance BIA cites in the May 2009 DEIS as a basis for withholding such critical information, citing FOIA Exemption under 5 U.S.C. §552(b) and 383 DM 15 do not apply here, because the information required to be made available is used as a basis for statements and conclusions found in a DEIS issued under NEPA. In sum, a FOIA exemption is not a basis to withhold information relied on to support statements and conclusions in a NEPA DEIS, particularly where as here, the documentation which BIA refuses to make available are used as a basis to support the DEIS's conclusions regarding positive economic impacts, including that the granting the preferred alternative under the CIN land to trust applications means the State will benefit in the amount of \$7.5 million per year and the Counties will cumulatively benefit in the amount of approximately \$4.2 million per year. See May 2009 DEIS at Section 4.8 at page 4.8-10.

Despite the fact that BIA in the DEIS touts the granting of the CIN applications as providing substantial economic benefits to the State and the Counties, the BIA has yet to provide the data on which those gaudy economic predictions are based, even though a previous request was made, and unambiguous authority requires such information be provided. Further, other

information critical to the conclusions reached in the DEIS as to impacts to archeological and historic resources among others, as well as information as to potential impacts to the environment from former gasoline station operations on one of the properties that is the subject of the CIN trust application is not provided. In short, the authorities cited by BIA to justify withholding such information are simply not applicable to NEPA and the publication of a DEIS under the circumstances.

In any event, even if it were determined that the documents and information required to be made available under NEPA and previously requested by the Counties were exempt or partially exempt from disclosure, as required by NEPA, FOIA expressly directs that "any reasonably segregable portion of a record" be "provided to any person requesting such record after deletions of the portions which are exempt." 5 USC § 552(b); Donovan v. FBI, 806 F.2d 55, 58 (2d Cir. 1986) (requiring that agencies "segregate their disclosable and non-disclosable portions). This provision requires BIA to differentiate among the contents of a document rather than to treat it as one record or document.

While the FOIA provision at issue clearly does not apply here under NEPA, in order to facilitate the public review of the May 2009 DEIS, we urge BIA to release the data compilations including those related to the economic impacts, those that concern or relate to field notes and other information requested, as the data identified would not under any objective standard constitute confidential business information (even if the FOIA exemption were to apply). Thus, we urge BIA to follow the law and immediately disclose all of the information requested and if necessary from BIA's perspective, review such documents and produce them in a manner so as not make available any legitimately confidential business information.

C. Information Required to be Provided as Part of the DEIS

Accordingly, we request that each of the studies, reports, underlying data compilations, or information relied upon by BIA referenced in the May 2009 DEIS be provided to the Counties, and we request that BIA specifically provide the following documents and information referenced therein:

1. The 2003 four year plan authored by the CIN previously referenced in the "Purpose and Need Section" of the pre-release or pre-publication DEIS issued by BIA in this matter, and each other such CIN plan or plans including documents that refer to same that may affect the properties which are the subject of these applications by CIN. Needless to say, given that the May 2009 DEIS fails to undertake substantial analyses and testing based on the statement that CIN has "no present plans" to develop undeveloped properties or increase the development on existing properties which are to be taken into trust, it is critical that any document referencing planning by CIN be provided to evaluate the potential for future development or future expansion by CIN;

2. The May 2009 DEIS references 1992 analytical results for one of CIN's Seneca Falls properties, specifically parcel 36-1-49, but such DEIS states that the report is "not available for review," please provide a copy of the report as there is no basis for the report not to be made available, and based upon the text of the DEIS, AKRF clearly reviewed such material. See p. 3.4-4. Because the 1992 data was clearly made available to AKRF and contains information regarding past impacts or potential impacts from petroleum operations on the referenced Seneca Falls property (located in close proximity to Seneca Lake) it is critical that this information be provided;

3. The field notes, worksheets, etc. generated or maintained by AKRF or others for the site inspections completed (apparently sometime in 2006) which are referenced in the "Living Resources" Sections in the DEIS, including but not limited to Sections 3.6 – 3.7. We do note that the May 2009 DEIS was revised to state that "all of the observations" were provided in the referenced sections, and in our view that is more reason to release the field notes, where, as here, such reports and notes are provided as a matter of proper professional protocol. Moreover, release of these documents is even more important where critical architectural, archeological and historical resources are located in close proximity to several parcels for which trust status has been sought, and the May 2009 DEIS concludes that there is no impact on those resources from the CIN trust properties because of the topography and vegetation associated with properties located between the CIN's parcels and the historic resources at issue and the resources at issue, including archeological resources effectively blocks or screens such resources. (For example, The Charles Howland-William H. Chase House is located "relatively close to" the Nation's Union Springs property, May, 2009 DEIS at p 3.7-4; and the Ferry Farm is located only .2 miles northeast of the Nation's Seneca Falls properties Id);

4. The data compilations or other documents used in conjunction with the IMPLAN model to generate the information and conclusions referenced in Section 3.8 subsection G as well as conclusions set forth in Section 4.8, including data sets used to produce any of the IMPLAN results relied upon, identification of computer programs used to process the results (by source code or otherwise), and outputs for intermediate or final model results referenced or relied upon in the pre-draft DEIS beginning on page 3.8-25 through page 3.8-28. (We note that on page 3.8-26 there is a reference to the exemption from FOIA addressed on pages 1 and 2 of this letter, yet the raw data allegedly supporting claims of expenditures by the CIN in New York State has not been provided, and such data is clearly required to be provided under NEPA and would not constitute confidential information as such information would be in raw form and not identify any confidences);¹

¹ We note that there are certain documents attached as Appendix H to the May 2009 DEIS which purport to relate to the IMPLAN model referenced in the DEIS, but review of that information demonstrates that there is no usable data contained in it.

5. Each document or compilation from which the data shown in Table 3.8-25 was generated in the May 2009 DEIS, including any documents detailing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including "the actual expenditures" referenced in Table 3.8-25;

6. The documents and compilations containing or referring to the underlying data which is summarized in Table 3.8-26 of the May 2009 DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-26;

7. The documents containing or referring to the underlying data which is summarized in the in Table 3.8-27 showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005" in areas located outside of Seneca and Cayuga Counties but within the State of New York, including the "actual expenditures" referenced in Table 3.8-27;

8. The data compilations, reports or documents used to develop the information summarized in the May 2009 DEIS at Table 3.8-28;

9. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-29;

10. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-30;

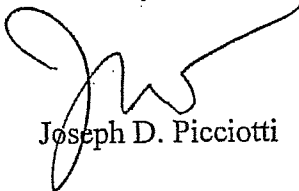
11. The date compilation reports or documents used to develop the information discussed at pages 4.8-6 through 4.8-12 and each of the data compilation reports or documents or other information relied upon or otherwise used in compiling Tables 4.8-2, 4.8-3, and 4.8-4; and

12. To the extent not provided in the appendix to DEIS, all of the data on which the analysis contained in Section 3.12 is based.

Needless to say, the Counties as cooperating agencies request that this information be provided, but in any event, NEPA requires that the information be made available so that the public may adequately review a Draft Environmental Impact Statement prepared pursuant to NEPA. As a result, we respectfully request that this information be provided before the scheduled June 17, 2009 public hearing. By a separate letter, we are requesting an extension of time to review the DEIS in light of the information not provided and in light of the potential impacts posed by the land-into-trust application.

We would appreciate a response as soon as possible and we look forward to hearing from you shortly.

Sincerely,



Joseph D. Picciotti

JDP:cds

Enclosure

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March 12, 2009

VIA FACSIMILE AND REGULAR MAIL 615 565 6701

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Re: Request That Information Referenced in Pre-Publication Draft of the DEIS
for the Cayuga Indian Nation Fee-to-Trust Transfer Application Be Provided

Dear Mr. Chandler:

We write as counsel to Seneca and Cayuga Counties (hereinafter the "Counties") regarding the above application to follow up my call to you last week. As we discussed, in reviewing the pre-publication draft of the DEIS ("pre-draft DEIS"), we note that there are a number of studies, reports and compilations or data in other forms which are referenced in the pre-draft DEIS and on which a number of statements and/or conclusions are based, but that were not provided in the text of the pre-draft DEIS, nor are such data or reports included in the appendix to it.

Under applicable regulations and guidance, including but not limited to 40 C.F.R. §1502.18 and/or 40 C.F.R. § 15.02.21, material referenced in the DEIS is required to be provided with the appendix to that document or otherwise made available with the DEIS. Since an appendix has been produced for the pre-draft DEIS, the below referenced information and documentation should be provided in that appendix. Further, because the information and documentation identified was relied upon in the DEIS, it should be readily available to the Bureau of Indian Affairs ("BIA") or its consultant, AKRF, Inc. ("AKRF").

As such, we request that each of the studies, reports, underlying data compilations, or information relied upon by BIA referenced in the pre-draft DEIS be provided to the Counties, and we request that BIA specifically provide the following documents and information referenced therein:

1. The 2003 four year plan authored by the Cayuga Indian Nation ("CIN") referenced in the "Purpose and Need Section" of the pre-draft DEIS, and any other such CIN plans considered by BIA or its contractor in completing the DEIS;
2. Each of the seven "Environmental Site Assessments" ("ESAs") completed or drafted for CIN's properties referenced beginning on page 3.4-1 -3.4.6 (under Section 3.4) of the pre-draft DEIS, including but not limited to a Phase I ESA for three of the nine parcels completed between March and September of 2003 by Environment Compliance Management Corporation, a Phase I Environmental Site Assessment completed in October 2005 by Synapse Risk Management, LLC, and any other Phase I reports in draft or other form considered or used by BIA in the pre-draft DEIS;
3. The reports, including spill reports, field notes and other information referenced in Section 3.4 at page 3.4-1 to 3.4-6 of the pre-draft DEIS concerning the properties identified therein, to the extent such information was not contained in the Phase I Environmental Assessments requested in number 2 above;
4. The documents generated from noise monitoring, including field measurements performed by AKRF as referenced in the pre-draft DEIS at pages 3.5-5 through 3.5-6 (a table is provided with the underlying data on which the information contained in the table is based is not provided);
5. The field notes, reports or other data compilations that were generated for the site inspection of the CIN properties on June 1, 2006 referenced in Section 3.6 at page 3.6-1 that relates or concerns to the properties visited during such inspection;
6. The field notes and other documents that were generated pursuant to the "field work" conducted in July of 2006 that is referenced in the pre-draft DEIS Section 3.7 (at page 3.7-1) concerning observations made relating to state and national registry listings for CIN properties;
7. The data compilations or other documents used in conjunction with the IMPLAN model to generate the information and conclusions referenced in Section 3.8 subsection G, including data sets used to produce any of the IMPLAN results relied upon, identification of computer programs used to process the results (by source code or otherwise), and outputs for intermediate or final model results referenced or relied upon in the pre-draft DEIS beginning on page 3.8-22 through page 3.8-29;

8. Each document or compilation from which the data shown in Table 3.8-27 (found at page 3.8-24) was generated in the pre-draft DEIS including any documents detailing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including "the actual expenditures" referenced in Table 3.8-27;

9. The documents compilations containing or referring to the underlying data which is summarized in Table 3.8-28 (found at page 3.8-25) of the pre-draft DEIS showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures," referenced in Table 3.8-27;

10. The documents containing or referring to the underlying data which is summarized in the pre-draft DEIS in Table 3.8-29 (found at page 3.8-26) showing "amounts expended for normal business operations based on actual expenditures during fiscal year 2005," including the "actual expenditures" referenced in Table 3.8-27;

11. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-30 found on page 3.8-27;

12. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-31 found on page 3.8-28;

13. The data compilations, reports or documents used to develop the information summarized in the pre-draft DEIS at Table 3.8-32 found on page 3.8-29;

14. To the extent not provided in the appendix to the pre-draft DEIS, all of the data on which the analysis contained in Section 3.12 is based.

Further, in accordance with the MOU, the Counties require the referenced information and documents in order to undertake the review required by the MOU in their areas of expertise, including public health and safety (for example, the Counties need access to the Phase I ESAs and other documents referenced above regarding inspection of the properties which were not provided), and tax and regulatory impacts (including data omitted as requested above relating to alleged expenditures and alleged expenditures in the Counties and State of New York). Therefore, the Counties reiterate their request that they be allowed additional time to review the pre-draft DEIS until such time as the referenced documentation is provided and adequate time is allowed for the Counties to review same.

During our phone call last week, you mentioned that the 2003 plan referenced in number 1 above is not in the possession of CIN, because it was seized pursuant to an ongoing litigation. We submit that copies of each of the foregoing documents would, as a matter of course, be in the possession of AKRF and so we request that a copy of the 2003 plan be obtained from it.

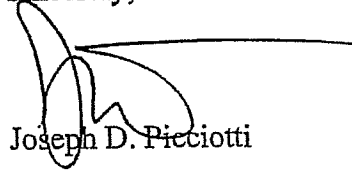
Kurt Chandler
March 12, 2009
Page 4

HARRIS BEACH
ATTORNEYS AT LAW

Needless to say, we would like this information produced to us as expeditiously as possible.

Please call me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph D. Picciotti". The signature is stylized with a large, sweeping initial "J" and a horizontal line extending to the right.

Joseph D. Picciotti

JDP:cds

108369 1158031.1

HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

99 GARNSEY ROAD
PITTSFORD, NY 14534
(585) 419-8800

JOSEPH D. PICCIOTTI

DIRECT: (585) 419-8629
FAX: (585) 419-8815
JPICCIOTTI@HARRISBEACH.COM

June 9, 2009

By Facsimile 615 564 6701
and Regular Mail

Kurt Chandler
Regional Environmental Scientist
Environmental and Cultural Resources
Bureau of Indian Affairs
Eastern Regional Office
545 Marriott Drive, Suite 700
Nashville, Tennessee 37214

Re: Request for Extension of the Public Comment Period for the Draft
Environmental Impact Statement issued for the Cayuga Indian Nation's
Land-into-Trust Applications for Land in Cayuga County and Seneca County

Dear Mr. Chandler:

We write on behalf of Cayuga County and Seneca County (collectively the "Counties") in the referenced matter to request that the public comment period for the Draft Environmental Impact Statement issued during the second week of May of this year ("DEIS") and made available to the public as of May 22, 2009 be extended for the reasons stated herein. Specifically, the Counties request that the public comment period for the DEIS be extended by no less than sixty (60) days following the proposed June 17, 2009 hearing, or until sixty (60) days after the information requested in the separate letter sent to you today dated June 9, 2009 is made available to the public, whichever is later.

The Counties request this extension of the public comment period because information and documentation to which the public is entitled under applicable federal law, including the National Environmental Policy Act of 1969 ("NEPA") to evaluate the conclusions and claims made in the DEIS has not been provided and must be made available in order to meet minimum requirements under NEPA. Further, application of the procedure whereby the Cayuga Indian Nation ("CIN") seeks to place lands into trust is unprecedented in this region of the country, and given the ramifications of the CIN request to place lands into trust, and the fact that this procedure has not previously been undertaken in this region, the public should have more time than the minimal time that is being provided to consider and review the issues presented. In addition, the Counties had previously requested that in light of pending litigation involving the Counties and CIN having a direct affect on impacts associated the CIN land-into-trust applications, including a suit challenging whether sales of goods and services by the Cayuga Indian Nation may be undertaken without CIN collecting sales taxes, that the DEIS be

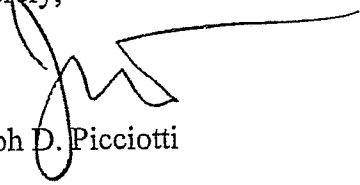
Kurt Chandler
June 9, 2009
Page 2

HARRIS BEACH ^{PLLC}
ATTORNEYS AT LAW

withdrawn and CIN's applications be stayed until such pending litigation is resolved. The Counties continue to believe that withdrawing the DEIS and staying the CIN trust applications pending a final determination of the referenced litigation is the best course of action, but if the Bureau of Indian Affairs is not inclined to withdraw the DEIS and stay consideration of the CIN applications, then the Counties request that the extension of the public comment period requested herein be granted.

We look forward to hearing from you.

Sincerely,



Joseph D. Picciotti

JDP:nac

cc: Philip G. Spellane, Esq.
Suzanne Sinclair
Frank R. Fisher, Esq.
Wayne D. Allen
Frederick R. Westphal, Esq.
Lee Alcott, Esq.
Daniel J. French, Esq.

108369 1201657
6/9/2009 10:40 AM

EXHIBIT - B

Step 1: BIA Review of Written Request or Application

- When you receive a written request from an individual Indian or tribe, check if the written request includes the following:
 - The identity of the person (individual or tribe) submitting the written request
 - The bases for qualifying as an applicant
Examples: For an individual, a proof of Indian Status as defined in 25 CFR § 151.2(c) (membership enrollment number); and for a tribe, listed as a federally recognized tribe.
 - A description of the land and estate being acquired
Examples: on-reservation, off-reservation, undivided fractional interest
 - The purpose of the acquisition includes both a category and specific use
Examples of categories are tribal self-determination, economic development or Indian housing. The applicant must provide a specific use within the category such as “economic development” of a gift shop or an oil refinery.
 - Statutory authority for the acquisition
Example: ~~25 U.S.C. § 465~~, Section 5 of the Indian Reorganization Act (IRA) of 1934
 - Tribal authority for acquisition
Example: Article and Section of tribe’s constitution; specific statute
 - Written consent of tribal government having jurisdiction if the applicant is not an enrolled member of the tribe or tribe having jurisdiction over the reservation where the fee lands are located.
 - Specific language in the written submittal requesting BIA accept title to the land in trust
 - Authorization for tribal officials to execute all relevant documents
 - Example: tribal resolution
- Review the submitted request and supporting documentation to ensure they meet the initial requirements of 25 CFR § 151.10. (See 25 CFR § 151.10.)
- Coordinate an [informal] Legal Description Review request to include a statement whether the BILS does/does not concur with the validity of legal description. The review is intended to verify that the description accurately describes the subject property, and that it is consistent throughout the application documents, such as the tribal resolution, commitment for title insurance, [survey] maps, warranty deeds, etc. (See Section 7.1.3)
- Identify any fatal errors that would result in the immediate failure of the application. Prepare a written notification to applicant of failure to qualify and send certified mail return receipt along with submitted documents. See Section 7.1.4 “Notice of Failure to Qualify for Fee-to-trust Acquisition.”
Examples of fatal errors: the applicant does not qualify as an individual Indian or tribe or the land is located in Canada or Mexico.
- Identify all missing information or documentation that is required, or materials submitted that do not have appropriate signatures, dates or other deficiencies that would prevent a complete review of the application and result in incomplete status. See Step 3 “Responding to an Incomplete Written Request or Application”.
- If not already included in the written request and necessary to reach a decision, request the applicant provide the following documentation. If applicant fails to respond, give notice

Paragraph A of this Checklist).

- E. When the Regional Director believes that the acquisition satisfies one of the Section 20 exemptions other than (b)(1)(A), the transmittal memorandum from the Regional Director must so indicate and must include an analysis establishing that such an exemption exists, and include supporting documentation, i.e., an appropriate Solicitor's Office legal opinion, in the acquisition file.
- F. The completed acquisition package must be reviewed by the appropriate Regional or Field Solicitor to ensure that all legal requirements have been adequately addressed.
- G. The Regional Director's Memorandum must contain a statement certifying that the documents submitted for the acquisition are copies of the original documents.

PART 1 - LAND ACQUISITION - 25 CFR PART 151

I. 151.3 Land acquisition policy

- A. The Regional Director's Proposed Findings of Fact and Conclusions must include a statement and statutory citation to the specific act(s) of Congress authorizing the trust acquisition, e.g., Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. § 465.

Additionally, the Regional Director's Proposed Findings of Fact and Conclusions must include a discussion of applicable provisions in the tribe's governing documents authorizing the tribe to take the requested action.

- B. The Regional Director must include a statement that indicates which circumstances listed in 25 CFR § 151.3(a) support the request for the trust acquisition.

II. 151.4 Acquisitions in trust of lands owned in fee by an Indian

- A. The trust acquisition package must include a discussion of the ownership status of the property, a legal land survey or other document that provides an accurate description of the property to be acquired, and a plat or map to show the distance and/or proximity of the property to the reservation, the reservation boundaries, or to trust lands, whichever is applicable (see also Part 1, Section VII,

- B. The acquisition package must include a copy of the resolution of the appropriate governing body of the tribe authorizing the trust acquisition request and must include a copy or excerpt of the tribe's governing document, if any, which identifies the scope of authority for the tribe's actions. The resolution should include a request to take the land into trust, the exact legal description of the property, the location, the intended purpose, and a citation to the applicable portion of the tribe's governing document which permits the governing body to make the request. The legal description of the property must be identical throughout the acquisition package. Any discrepancies in the legal description should be noted and fully explained.
- C. The Regional Director must provide an assurance that the information provided pursuant to 25 CFR § 151.4 was reviewed and found to be sufficient. The Regional Director's assurance must include a brief summary of the tribe's history, organization, and governing practices to illustrate the tribe's operating standards. Legal issues must be reviewed by the appropriate Regional or Field Solicitor. A copy of the Solicitor's opinion or response must be included as part of the package.

III. 151.5 Trust acquisitions in Oklahoma under Section 5 of the Indian Reorganization Act

- A. When 25 CFR § 151.5 applies, the acquisition package must include all the information required under Part 1, Section II of this Checklist.

IV. 151.6 Exchanges

- A. When 25 CFR § 151.6 applies, the acquisition package must include all the information required under Part 1, Section II of this Checklist, in addition to information required in 25 CFR Part 152, if applicable.

V. 151.7 Acquisitions of fractional interests

- A. When 25 CFR § 151.7 applies, the acquisition package must include all the information required under Part 1, Section II of this Checklist.

EXHIBIT-C



GREEN & SEIFTER

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April 14, 2005

LEE ALCOTT
MICHAEL J. BALANOFF
SARAH LEWIS BELCHER
LAURENCE G. BOUSQUET
PHILIP S. BOUSQUET
DAVID A. HOLSTEIN †
VIRGINIA A. HOVEMAN*
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SHARON A. MCAULIFFE
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PAUL M. PREDMORE
LOWELL A. SEIFTER ‡
JOHN L. VALENTINO
ROBERT K. WEILER
HARRISON V. WILLIAMS, JR.
DOUGLAS H. ZAMELIS
KIMBERLY M. ZIMMER ††

Franklin Keel, Regional Director
Eastern Regional Office
Bureau of Indian Affairs
711 Stewarts Ferry Pike
Nashville, TN 37214

Re: Application of The Cayuga Indian Nation of New York Requesting Land Be Taken Into Trust

Dear Mr. Keel:

This firm represents the Cayuga Indian Nation of New York (the "Nation"). As set forth in the enclosed letter from Clint Halftown, the BIA recognized representative of the Nation, the Nation is requesting that land owned by the Nation be taken in trust by the United States for the Nation's use and benefit.

As you know, there remains a leadership dispute within the Nation, the result of which is that this application has not been submitted to the full Cayuga Nation Council for consideration; however, we have consulted with Attorney Joseph J. Heath, Esq., who represents a number of other members of the governing council and have provided him with a copy of this submission.

Based on the stated intentions of local municipalities to enter upon the Nation's land in the wake of the *Sherrill* decision (see attached newspaper article dated April 14, 2005), we believe that the best interests of the Nation are served by the immediate submission of this application.

Very truly yours,

GREEN & SEIFTER, ATTORNEYS, PLLC

Daniel J. French

DJF/mm
cc: Clint Halftown
Lee Alcott, Esq.
BJ Radford
Joseph J. Heath, Esq.

Real Estate Services

APR 19 2005
BY:

04-15-05P12:42 RCVD

OF COUNSEL:
WILLIAM P. BATES
JAMES F. DWYER
DANIEL J. FRENCH
EDWARD S. GREEN †
H. RICHARD LEWIS
SIDNEY L. MANES
THOMAS E. TAYLOR***
CHRISTINE W. DETTOR
KATHLEEN M. FAULKNHAM
SHARON E. FELLOWS
KIM V. HEYMAN
DAFNI S. KIRITSIS
FREDERICK W. MARTY
LAWRENCE M. ORDWAY, JR.

ROBERT D. MCAULIFFE
1993-1995
DAVID A. YAFFEE
1986-2004

* ALSO ADMITTED TO IL BAR
** ALSO ADMITTED TO N.C. BAR
*** ALSO ADMITTED TO D.C. BAR
† ALSO ADMITTED TO FL. & PA. BAR
†† ALSO ADMITTED TO MA. BAR
‡ ALSO CERTIFIED PUBLIC ACCOUNTANT
††† NOT FOR SERVICE OF PROCESS

EXHIBIT - D



The Smokestack Effect: Toxic Air and America's Schools

23 Schools in New York match your search

44th percentile

National Rank

The air is worse at 55,911 schools across the nation

Border City Elementary School

125 Border City Road Geneva, NY

2nd percentile

National Rank

The air is worse at 1,144 schools across the nation

Elizabeth Cady Stanton Elementary School

38 Garden St Seneca Falls, NY

74th percentile

National Rank

The air is worse at 94,954 schools across the nation

Fayette Mennonite School

1468 Leader Rd Waterloo, NY

25th percentile

National Rank

The air is worse at 30,929 schools across the nation

Finger Lakes Christian School

2291 State Route 89 Seneca Falls, NY

50th percentile

National Rank

The air is worse at 64,399 schools across the nation

Five Points Correctional Facility

Caller Box State Rt 9 Romulus, NY

4th percentile

National Rank

The air is worse at 3,510 schools across the nation

Frank M. Knight Elementary School

98 Clinton St Seneca Falls, NY

54th percentile

National Rank

The air is worse at 69,709 schools across the nation

Grove Creek School

2666 Parish Rd Ovid, NY

74th percentile

National Rank

The air is worse at 94,631 schools across the nation

EXHIBIT E



JDP JUL 01 2009
County of Cayuga

County Treasurer
James Orman

County Manager
Wayne D. Allen

July 1, 2009

Franklin Keel, Regional Director
Eastern Regional Office, Bureau of Indian Affairs
545 Marriot Drive, Suite 700
Nashville, TN 37214

Re: DEIS Comments, Cayuga Indian Nation of New York Trust Acquisition Project"

Dear Mr. Keel:

We are writing to you to bring to your attention a serious deficiency in the Draft Environmental Impact Statement issued by the Bureau of Indian Affairs (BIA) as part of the "land in trust" application submitted by the Cayuga Indian Nation (CIN) in 2005.

It is our stated opinion the DEIS fails to consider the impact upon our local economy including on Cayuga County's ability to undertake necessary community services and maintain infrastructure due to the refusal of the (CIN) to collect and remit New York State and Cayuga County sales taxes on transactions on gasoline and other commodities and their refusal to pay excise taxes on tobacco products. The State and County are unable to collect these taxes. This undermines our local businesses and burdens our local real property taxpayers.

It is our intention to provide you with factual and documented data that will enable you to understand the fiscal impact of these lost taxes and its budgetary implications on County, City, Towns and Villages services and budgets.

County governments are an extension of State Government. We are mandated to provide and service Federal and State programs. We share the cost of those mandated services. Over 80% of the County's budget funds these Federal and State mandated programs.

County Governments in New York State have five major sources of revenue. They are federal aid, state aid, fees and other charges, sales tax and real property taxes. In 2009, Cayuga County appropriated the following total revenues of \$139,148,832.00.

July 1, 2009

We have attached an analysis of the County's total revenues for 2009. In 2009, sales taxes represent approximately 16%, federal and state aid combined approximately 26% and real property taxes approximately 27% of all collected revenues. As such, sales tax revenues are an integral mechanism for funding mandated services and infrastructure maintenance that Cayuga County must undertake and any shortfall in sales tax revenues presents a significant negative impact on our ability to provide services and means that we have to raise such funds from property taxes.

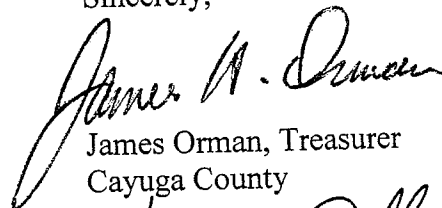
We have heard directly from local Convenience stores and other local retailers that they lose thousands of dollars weekly when the (CIN) retail stores operate.

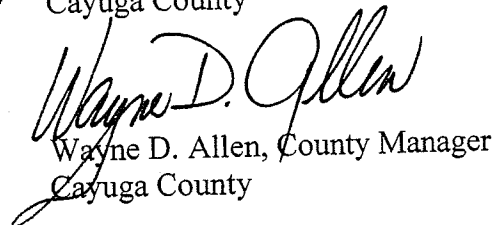
The inability to collect these sales tax dollars forces the County and other local governments to choose to raise real property taxes or cut vital local services. Many of the Towns and Villages are dependent of their portion of County sales tax revenue (County shares 50% of all County sales tax collected with all the Towns and Villages) to fund their budgets and Capital Improvement Programs.

The DEIS does not account for the loss of sales tax collections upon all levels of local government in Cayuga County. Not addressing the impact on local businesses and local government budgets is a disservice to our and your constituents. The failure of the DEIS to address the loss of local sales tax collection will have consequences on the County, City, Towns and Villages for decades to come.

We request the (BIA) declared the present DEIS material flawed and select the No Action Alternative because it is the only logical choice given the adverse impacts identified and the failure of the DEIS to address those adverse impacts.

Sincerely,


James Orman, Treasurer
Cayuga County


Wayne D. Allen, County Manager
Cayuga County

County of Cayuga
2009
General Fund
Revenue Budget Analysis

	Per Original Budget	Per Original Budget	Per Original Budget	Per Original Budget	Per Original Budget	Percent of Budgeted Expenditures
	General Fund	County Road	Road Machinery	Nursing Home	Total	
Federal & State Revenue	\$23,890,124	\$2,941,797	\$22,000	\$4,529,374	\$31,383,295	26.17%
Sales Tax Revenue	\$19,250,000	\$0	\$0	\$0	\$19,250,000	16.06%
Real Property Tax Revenue	\$32,933,217	\$0	\$0	\$0	\$32,933,217	27.47%
All Other Revenue	\$20,553,044	\$11,229	\$2,581,100	\$1,124,759	\$24,270,132	20.24%
Interfund Revenues	\$0	\$7,236,111	\$507,134	\$0	\$7,743,245	6.46%
Use of Fund Balance	\$2,900,000	\$0	\$0	\$1,418,943	\$4,318,943	3.60%
Total Revenue	\$99,526,385	\$10,189,137	\$3,110,234	\$7,073,076	\$119,898,832	100.00%
Total Appropriations	\$99,526,385	\$10,189,137	\$3,110,234	\$7,073,076	\$119,898,832	

EXHIBIT - F

One DiPronio Drive
Waterloo, New York 13165-1681
Phone: 315-539-1701
Fax: 315-539-0207



Suzanne Sinclair
County Manager

SENECA COUNTY, NEW YORK
OFFICE OF THE COUNTY MANAGER

July 02, 2009

Franklin Keel, Regional Director
Eastern Regional Office, Bureau of Indian Affairs
545 Marriott Drive, Suite 700
Nashville, TN 37214

Dear Mr. Keel:

I write to note a serious deficiency in the Draft Environmental Impact Statement issued by the BIA as part of the "land in trust" application submitted by the Cayuga Indian Nation (CIN) in 2005.

The DEIS fails to consider the impact on the local economic environment by the refusal of the CIN to collect and remit New York State and Seneca County sales taxes on transactions and their refusal to pay excise taxes on cigarettes. The non-collection of these taxes has a severe detrimental effect on the local economy and on the taxpayers of Seneca County, regardless of the outcome of the open case in court that specifically addresses the tax-related questions.

The effect of the non-collection of these taxes on other retailers in the two-county area has been commented upon by others. My goal is to bring to light the effect of non-collection of sales taxes on every taxpayer in Seneca County.

County governments provide mandated services - that is, we perform certain tasks assigned to counties by the New York State Constitution and by the state legislatures. We provide highway construction and maintenance, snow removal, public health services, a county jail, traffic patrol, criminal investigation, navigation safety patrol, community planning services, maintenance of land records, and a myriad of other services to the public at the behest of state law. These services are not a choice.

County governments are funded by state aid, by property tax, and by sales tax. The state aid is primarily to assist in paying for social services mandated by the state and for the construction of highways. The state aid does not pay 100 percent of the cost. The balance must be provided locally.

County funding comes from two main sources: sales tax and property tax. In 2008, Seneca County recorded total revenues of \$49,583,657. An analysis of these revenues is attached. It shows that the three major revenue sources are sales tax, state and federal aid, and property tax, in that order. Sales tax makes up 39% of the total revenues. State and federal aid constitute 29%, and property tax comes to 19%. Other revenue sources such as interest, bond proceeds, fines and permits, and intergovernmental charges each come to 1% or less, making up the remaining 13%.

Counties must create a balanced annual budget, and whatever services are not funded by sales tax must be funded by property tax.

Sales taxes are collected and remitted to the state according to schedules determined by the size of the vendor. Most businesses pay quarterly. Larger businesses pay monthly, smaller businesses pay annually. The state of New York distributes the sales tax revenue to the counties about three times a month. The distributions in the first part of each month are made according to formulaic estimates based on the prior years' collections, and then at the end of the month and quarter, the distribution more closely reflects actual cash collections made during the quarter.

I have attached a spreadsheet with our current year and 2008 sales tax collections. You will note that for 2009, cumulative, overall sales tax collections are flat. Many jurisdictions have had serious drops in their sales tax collections. Seneca County began the year with a 36%, an 87%, and a 6% drop in sales tax collections.

The second distribution for February is a 47% increase in sales tax collections. This could possibly reflect the opening of a major retailer in Seneca County. However, the most interesting fluctuation is the second distribution in April – **an increase of 113%** over the prior year's distributions, a difference of \$767,981. The increase of collections for the entire month of April 2009 from April 2008 is \$671,117. I asked our County Treasurer, Nick Sciotti, to investigate. We wanted to be sure that this was not an error.

Of the \$671,117, about \$151,000 was attributable to new retail business, and \$134,000 to corrections and delinquent collections. However, \$74,000 of the sales tax collections reflected an increase in motor fuel sales at a time when the price of gasoline was declining, not to mention the fuel sales tax cap in place in Seneca County. Clearly, this reflects a large increase in the sales of fuel from establishments that collect sales tax, at least \$925,000 worth. (With the sales tax cap, it is hard to get an accurate estimate of total sales. This estimate assumes that all the sales were fully taxable.)

This leaves a \$312,117 increase in sales tax collections where the only logical explanation appears to be that such increase resulted from the discontinuance of cigarette sales after the closure of the CIN's Lakeside Trading resulted in the increase of sales by other retailers.

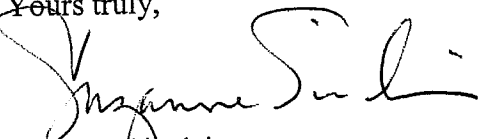
Projections by the DEIS completely ignore the current impact of businesses that refuse to collect sales tax, and yet this is demonstrably a significant adverse impact. Further, the DEIS coyly suggests that there will be no growth in business enterprises, yet the CIN has purchased new businesses that are not collecting sales tax, either. **The DEIS ignores completely the possibility of these events that have already taken place.**

These impacts are significant. They hurt the local economy and the local community. They discourage business growth, create job losses, and increase the emigration of young jobseekers.

The DEIS is flawed beyond salvation. Seneca County welcomes businesses and business owners who will contribute to growth in our communities. We do not believe the DEIS properly considers the potential impact of the CIN's land in trust application.

The DEIS and the land in trust application should be rejected.

Yours truly,



Suzanne Sinclair
Seneca County Manager

Sales Tax Distributions - 2008 and 2009 - SENECA COUNTY

1:08 PM 7/2/2009

Year to Year

to Year

Cumulative Difference

2008 - 2009

Monthly Difference

2008 - 2009

Change %

Cumulative 2009

Change %

PAYMENT

	2008	Cumulative 2008	% to Actual	2009	Monthly Difference 2008 - 2009	Change % to Year	Cumulative 2009	Cumulative Difference 2008 - 2009	Change % Year to Year
JAN 1	\$1,254,827.26	\$1,254,827.26	7%	\$800,215.49	(\$454,611.77)	-36%	\$800,215.49	(\$454,611.77)	-36.2%
JAN 2	\$3,318.53	\$1,258,145.79	7%	\$438.58	(\$2,879.95)	-87%	\$800,654.07	(\$457,491.72)	-36.4%
FEB 1	\$1,079,343.74	\$2,337,489.53	12%	\$1,015,822.50	(\$63,521.24)	-6%	\$1,816,476.57	(\$521,012.96)	-22.3%
FEB 2	\$230,989.36	\$2,568,478.89	13%	\$338,798.38	\$107,809.02	47%	\$2,155,274.95	(\$413,203.94)	-16.1%
FEB 3	\$2,236.97	\$2,570,715.86	13%	\$169.38	(\$2,067.59)	-92%	\$2,155,444.33	(\$415,271.53)	-16.2%
MARCH 1	\$894,103.50	\$3,464,819.36	18%	\$835,386.05	(\$58,717.45)	-7%	\$2,990,830.38	(\$473,988.98)	-13.7%
MARCH 2	\$222,986.33	\$3,687,805.69	19%	\$165,879.56	(\$57,106.77)	-26%	\$3,156,709.94	(\$531,095.75)	-14.4%
MARCH 3	\$1,192.87	\$3,688,998.56	19%	\$153.08	(\$1,039.79)	-87%	\$3,156,863.02	(\$532,135.54)	-14.4%
APRIL 1	\$1,019,766.03	\$4,708,764.59	25%	\$924,102.48	(\$95,663.55)	-9%	\$4,080,965.50	(\$627,799.09)	-13.3%
APRIL 2	\$677,336.27	\$5,386,100.86	28%	\$1,445,317.17	\$767,980.90	113%	\$5,526,282.67	\$140,181.81	2.6%
APRIL 3	\$1,533.14	\$5,387,634.00	28%	\$331.76	(\$1,201.38)	-78%	\$5,526,614.43	\$138,980.43	2.6%
MAY 1	\$1,048,093.60	\$6,435,727.60	34%	\$965,911.21	(\$82,182.39)	-8%	\$6,492,525.64	\$56,798.04	0.9%
MAY 2	\$240,213.69	\$6,675,941.29	35%	\$214,670.60	(\$25,543.09)	-11%	\$6,707,196.24	\$31,254.95	0.5%
MAY 3	\$1,364.81	\$6,677,306.10	35%	\$202.66	(\$1,162.15)	-85%	\$6,707,398.90	\$30,092.80	0.5%
JUNE 1	\$1,110,754.72	\$7,788,060.82	41%	\$986,744.42	(\$124,010.30)	-11%	\$7,694,143.32	(\$93,917.50)	-1.2%
JUNE 2	\$217,342.31	\$8,005,403.13	42%	\$190,181.65	(\$27,160.66)	-12%	\$7,884,324.97	(\$121,078.16)	-1.5%
JUNE 3	\$978.05	\$8,006,381.18	42%	\$160.79	(\$817.26)	-84%	\$7,884,485.76	(\$121,895.42)	-1.5%
JUNE 4	\$421,000.00	\$8,427,381.18	44%			0%	\$7,884,485.76	\$0.00	0.0%
JULY 1	\$744,292.65	\$9,171,673.83	48%			0%	\$7,884,485.76	\$0.00	0.0%
JULY 2	\$562,725.24	\$9,734,399.07	51%			0%	\$7,884,485.76	\$0.00	0.0%
JULY 3	\$1,177.44	\$9,735,576.51	51%			0%	\$7,884,485.76	\$0.00	0.0%
AUG 1	\$1,349,328.10	\$11,084,904.61	58%			0%	\$7,884,485.76	\$0.00	0.0%
AUG 2	\$317,209.92	\$11,402,114.53	59%			0%	\$7,884,485.76	\$0.00	0.0%
AUG 3	\$1,615.81	\$11,403,730.34	59%			0%	\$7,884,485.76	\$0.00	0.0%
SEPT 1	\$1,294,097.03	\$12,697,827.37	66%			0%	\$7,884,485.76	\$0.00	0.0%
SEPT 2	\$288,094.50	\$12,985,921.87	68%			0%	\$7,884,485.76	\$0.00	0.0%
SEPT 3	\$1,374.95	\$12,987,296.82	68%			0%	\$7,884,485.76	\$0.00	0.0%
OCT 1	\$1,175,512.18	\$14,162,809.00	74%			0%	\$7,884,485.76	\$0.00	0.0%
OCT 2	\$1,012,591.35	\$15,175,400.35	79%			0%	\$7,884,485.76	\$0.00	0.0%
OCT 3	\$1,759.61	\$15,177,159.96	79%			0%	\$7,884,485.76	\$0.00	0.0%
NOV 1	\$1,228,961.56	\$16,406,121.52	85%			0%	\$7,884,485.76	\$0.00	0.0%
NOV 2	\$218,073.09	\$16,624,194.61	87%			0%	\$7,884,485.76	\$0.00	0.0%
NOV 3	\$1,591.07	\$16,625,785.68	87%			0%	\$7,884,485.76	\$0.00	0.0%
DEC 1	\$1,200,445.63	\$17,826,231.31	93%			0%	\$7,884,485.76	\$0.00	0.0%
DEC 2	\$242,229.72	\$18,068,461.03	94%			0%	\$7,884,485.76	\$0.00	0.0%
DEC 3	\$763.86	\$18,069,224.89	94%			0%	\$7,884,485.76	\$0.00	0.0%
DEC 4	\$585,000.00	\$18,654,224.89	97%			0%	\$7,884,485.76	\$0.00	0.0%
DEC 5	\$550,488.35	\$19,204,713.24				0%	\$7,884,485.76	\$0.00	0.0%
TOTAL	\$19,204,713.24	\$19,204,713.24	100%				\$7,884,485.76	\$0.00	

ANALYSIS OF SENECA COUNTY REVENUES - 2008

Bond proceeds	\$ 601,000	1%
Federal aid	5,838,069	12%
State aid	8,618,966	17%
Intergovernmental charges	553,198	1%
Departmental income	3,999,187	8%
Other taxes - 911, hotel, OTB	278,316	1%
Interfund transfers	21,577	0%
Interest earnings	581,934	1%
Sales taxes	19,206,973	39%
Property taxes	9,647,940	19%
Misc other sources - fines, permits, etc.	236,498	0%
Subtotal:	<u>49,583,658</u>	
Less: interfund transfers	-21,577	
	<hr/>	
2008 Total Revenues:	\$ <u><u>49,562,081</u></u>	100%

EXHIBIT-6

Potential Property Tax Revenue Loss if Tax Exempt-- Seneca County*

I. Current CIN-owned lands (22 properties, 659.77 acres)

- Town of Varick- \$965
- Town of Seneca Falls- \$814
- Village of Seneca Falls- \$4,600
- Seneca Falls S.D.- \$49,055
- Romulus S.D.- \$7,959
- Seneca County- \$13,514

Total Loss: \$76,907

II. All taxable lands in entire Land Claim area (approximately 21,000 acres)

- Town of Fayette- \$313,264
- Town of Varick- \$131,498
- Town of Seneca Falls- \$34,275
- Village of Seneca Falls- \$959,207
- Seneca Falls S.D- \$5,869,600
- Romulus S.D.- \$1,178,918
- Seneca County- \$1,658,808

Total Loss: \$10,145,570

* Source: Seneca County; 2008 assessment and 2009 tax information

PRELIMINARY REPORT

Potential Property Tax Revenue Loss If Tax Exempt – Cayuga County NY Area

I.) Current Cayuga Indian Nation Of NY Lands In Cayuga County. – (14 Tax Parcels)

2009 Cayuga County Tax-----	\$32,991.44
2009 Town Of Springport Tax-----	\$2,679.58
2009 Town Of Montezuma Tax-----	\$2.61
2009 Village Of Union Springs Tax-----	\$10,596.17
2009 Union Springs School District Tax---	\$67,668.62
2009 Port Byron School District Tax-----	\$21.89
TOTAL-----	\$113,960.31

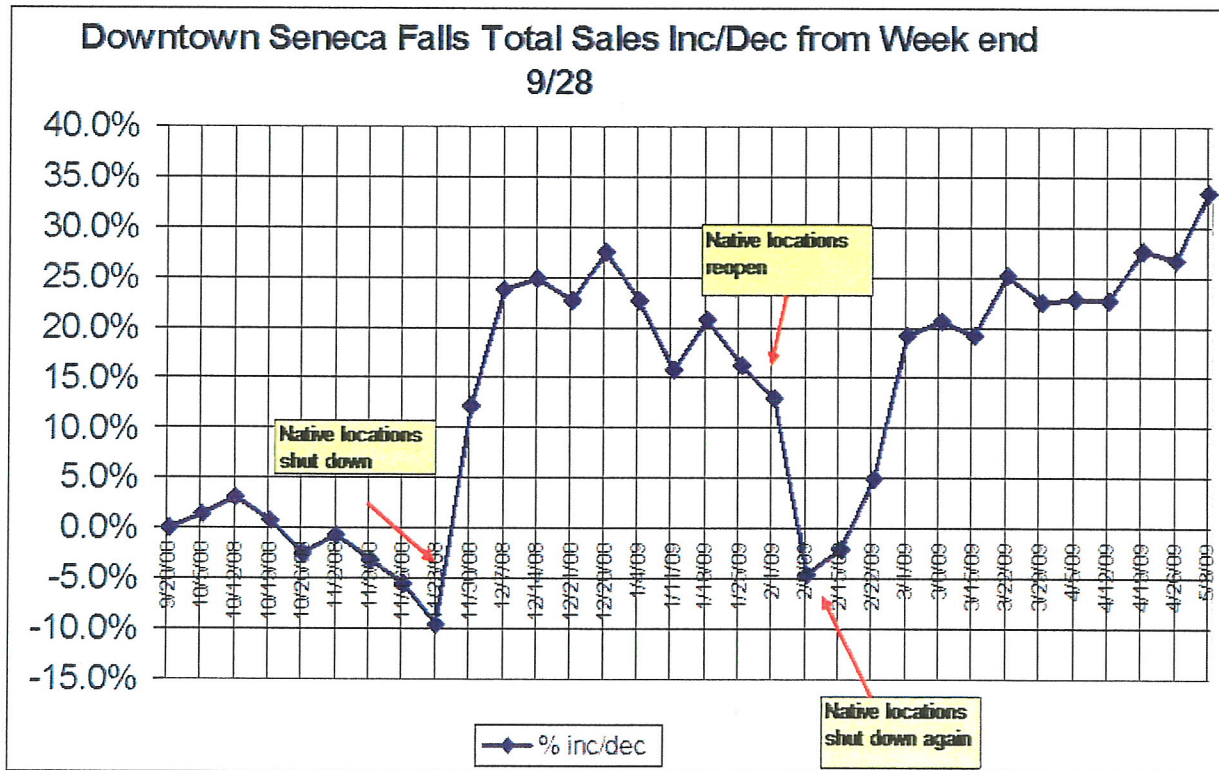
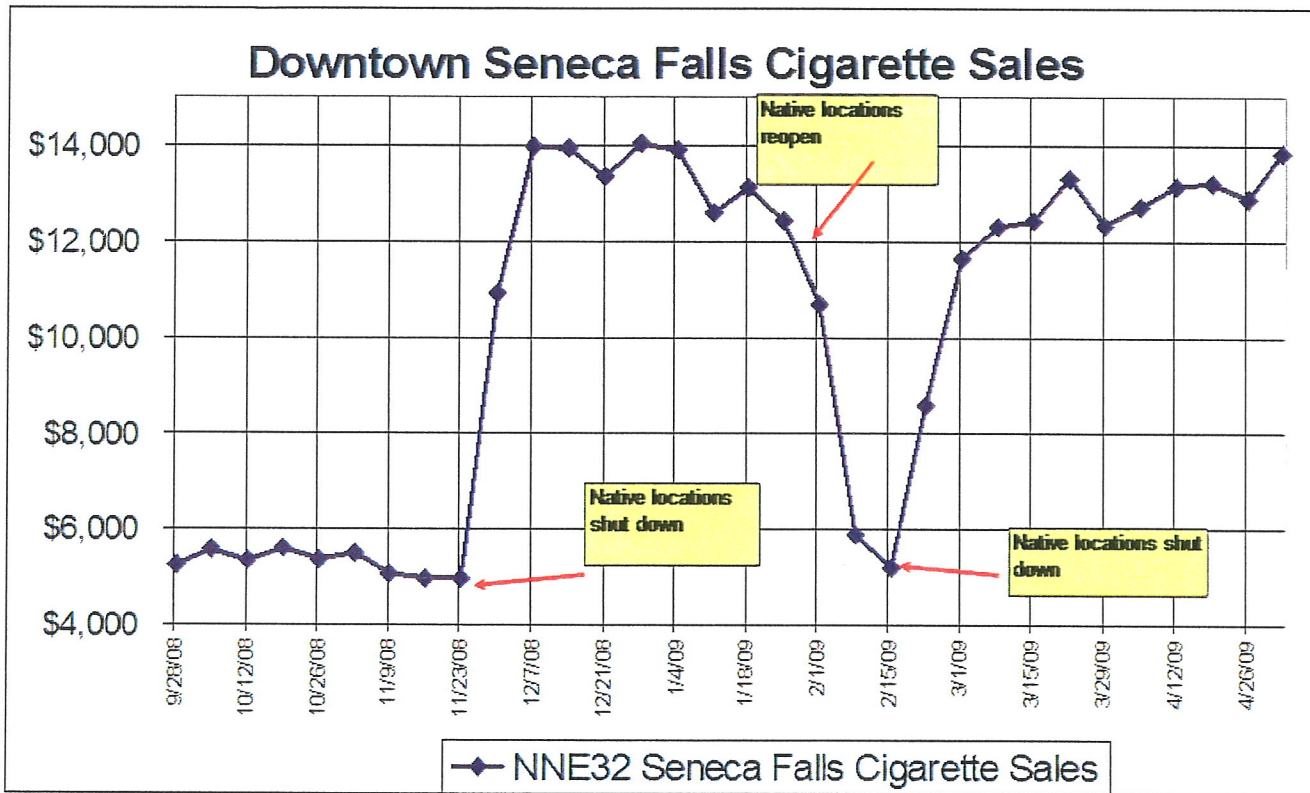
II) All taxable lands in the entire Land Claim area. (Within Cayuga County NY) *

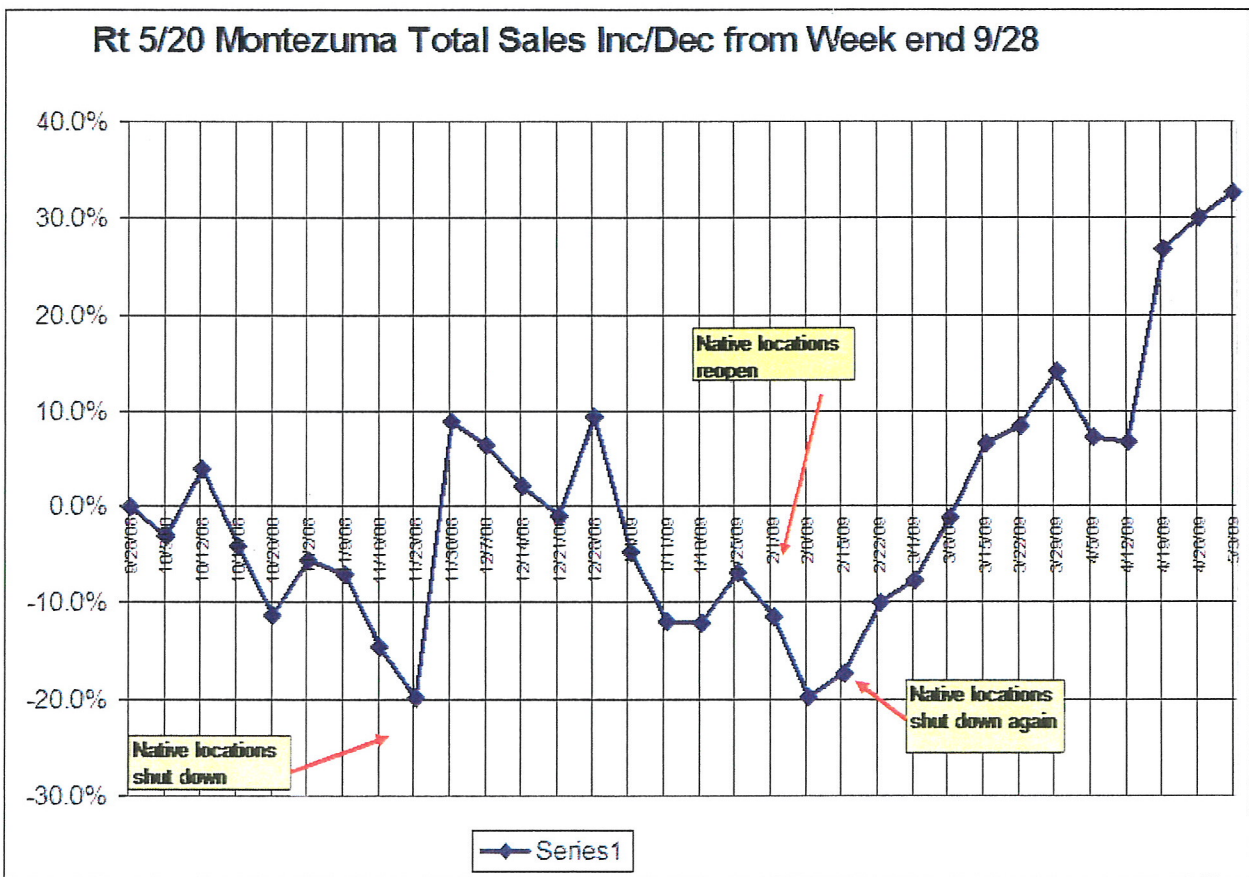
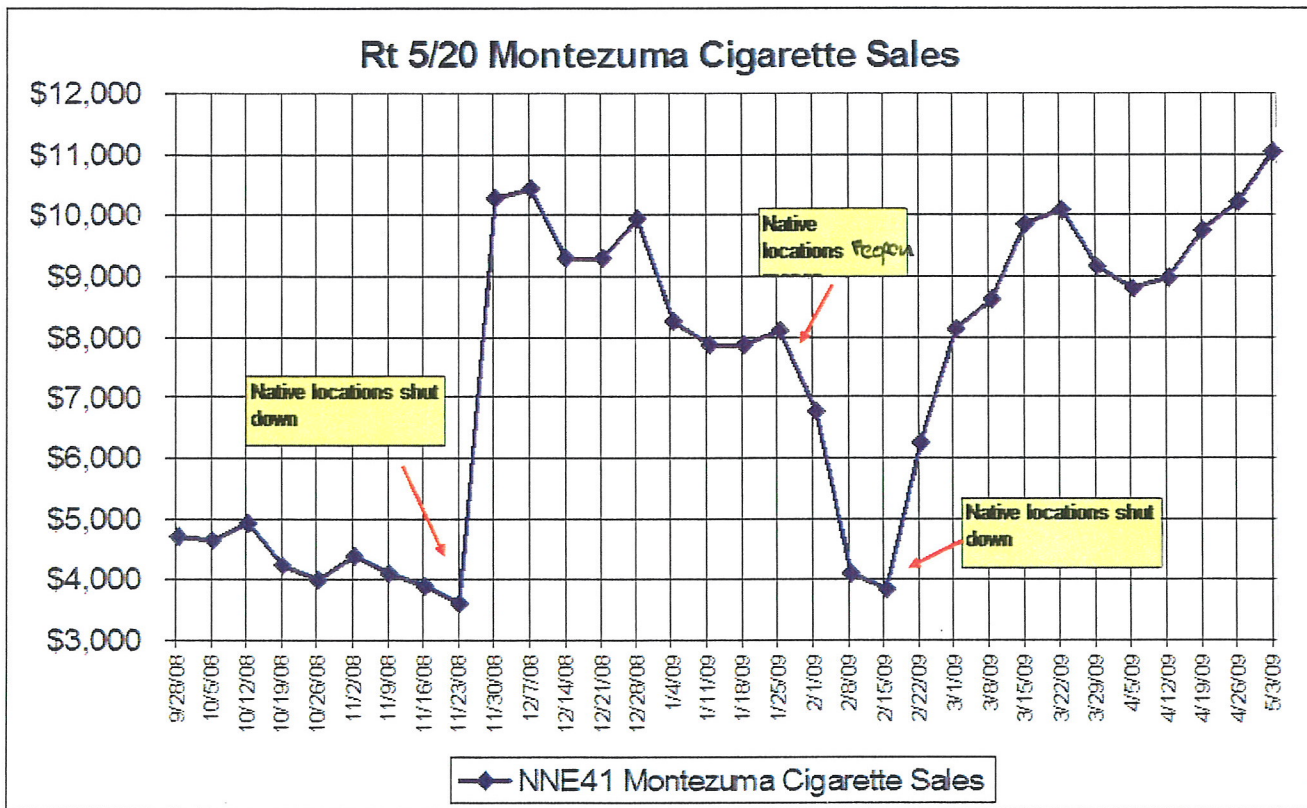
Town of Aurelius Tax-----	\$70,011.(t) & 21,014.(v)
Village Of Cayuga Tax-----	\$178,000.
Town Of Montezuma Tax-----	\$72,975.
Town Of Springport Tax-----	\$72,008.(t) & 37,920.(v)
Village Of Union Springs Tax-----	\$208,892.
Town Of Ledyard Tax-----	\$38,024.(t) & 8,189.(v)
Village Of Aurora Tax-----	\$ 19,576.
Port Byron School District Tax-----	\$35,179.(Aur) & 612,852.(Mon)
Union Springs School District Tax-----	\$4,847,964.
Southern Cayuga School District Tax-----	\$709,618.
Cayuga County Tax-----	\$4,847,964.
TOTAL-----	\$11,780,186.

* Source: The Cayuga County NY Office Of real Property Services.

The totals for the entire land claim area are approximate and were achieved by extracting a custom report file from the RPS database. This report file contained the 2008 assessment year (2009 tax roll) taxable assessed values for municipality & school districts for the entire towns within the land claim area. The GIS database was subsequently used to edit the list and only include parcels within the bounds of the land claim area. After adding suffix parcel and special franchise to the listings, the resulting taxable totals were multiplied by the appropriate tax rates to achieve the total tax amounts cited above. (The above list II does not include college charge back or special district taxes)

EXHIBIT - H





Matthew Paduano

6/26/2009

EXHIBIT - I

Village of Union Springs
P.O. Box 99
Union Springs, New York 13160
INCORPORATED 1848
(315) 889-7341 ♦ Fax (315) 889-7342

February 10, 2006

VIA FAX: 615-564-6701
VIA OVERNIGHT MAIL

Mr. Franklin Keel
Regional Director
Eastern Regional Office
United States Department of Interior
Bureau of Indian Affairs
545 Marriott Drive
Suite 700
Nashville, Tennessee 37214

Re: Comments by the Village of Union Springs as to the Potential Impacts of the Cayuga Indian Nation of New York's Acquisition of Trust Land within the Village of Union Springs

Dear Mr. Keel:

The Village of Union Springs (the "Village") submits the following comments to the applications by the Cayuga Indian Nation of New York (the "Nation") for the fee-to-trust land acquisition of three parcels located within the Village (the "Application"). The Village is adamantly opposed to the Application and respectfully submits that the Bureau of Indian Affairs ("BIA") should deny the Application in its entirety.

I. General Description of the Village and its Population

The Village of Union Springs, incorporated on November 8, 1848, is located on the eastern shore of Cayuga Lake, along New York State Route 90 in the Town of Springport within Cayuga County. See Exhibits 1 (map of Cayuga County showing location of Village), 2 (United States Geological Service ("U.S.G.S.") map showing location of Village) and 3 (U.S.G.S. map depicting the Village along Cayuga Lake). The total acreage of the Village is approximately one thousand one hundred thirty acres. The vast majority of the acres is developed land, defined as land developed for residential, commercial, industrial or institutional uses. The current land classifications for the Village land, in approximate percentages, are 41% residential, 3% commercial, 1% industrial, 11% community services (schools, churches and government), 1% parks and opens space, 30% agricultural and 12% vacant.

Mr. Franklin Keel
February 10, 2006
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The Village has a population of about one thousand people and has an annual budget of over four hundred eighty-three thousand dollars, excluding water and sewer assessments. The Village is the urban center of the Town of Springport, providing businesses and services for the residents of both the Town and Village. Without question, the Village is primarily a residential village, with some supporting commercial, industrial and institutional uses located in or near the "downtown" center. The Village has a concentration of businesses in the center of the community and a commercial area, located north of downtown, with a few small businesses. Some farming occurs northeast of the Village center and a few crop farms lie to the south. Industrial and vacant lands are located north of the center business district, but no large industrial businesses currently exist in the Village. Remaining lands in the outlying areas of the Village are available for farming or development.

The Village, because of its scenic, architectural, waterway and wildlife assets, has been included in several important state and local plans for canals, scenic byways and waterfronts.

There are a number of canal corridor plans which outline the potential of canals to provide tourism and economic benefits to local communities. For example, the New York State Canal Recreation Plan, generated by the historic Erie Canal, made recommendations for the Village based upon two regionally implemented plans which sought to preserve natural resources in the area, encourage development and business activities in areas already supported by infrastructure, and improve boat launch facilities and pedestrian linkages to the waterfront and commercial district. An additional plan, implemented by Cayuga County, provided more detailed recommendations for Union Springs in that it sought to improve the marinas and pedestrian access from the waterfront to other portions of the Village and State Route 90. It also sought to expand Frontenac Park (a 26-acre park along the Lake shore that has a sandy beach, playground, various sporting fields, boat launches and docks), encourage commercial development in areas designated for development (such as the central business district) and control development through site plan review. Many of these recommendations were implemented by grant funds received by the Village.

The Village was also included in several scenic byway plans that incorporate a portion of State Route 90 and a byway which extends from State Route 90 and encircles Cayuga Lake. The Corridor Management Plans identify the historic, scenic, natural and recreational assets of the region surrounding the Cayuga Lake Scenic Byway. The assets identified include many Village sites such as the marinas, historic Village center, Spring Mills stone mill building, Frontenac Park, Frontenac Island and Frontenac Museum. The Plans attempted to capitalize on the unique nature of the Cayuga Lake Scenic Byway route to generate sustainable economic growth along the Canal Corridor. The Plans recognize the importance of the long-term viability of the Scenic Byway as a means of protecting and enhancing these assets.

A recent plan by the State to revitalize waterfront villages by improving aesthetic issues includes the Village. In order to regulate improvements made to specific structures in the Village, the Village is considering the development of a capital improvement district and a historic district. Implicit with the development of such districts would be the implementation of

site plan guidelines requiring Village property owners to make certain improvements in compliance with said guidelines.

II. Parcels at Issue

In April 2003, the Nation purchased two parcels within the Village, one parcel consisting of approximately 2 acres that was being operated as a gas station/convenience store and car wash and the second consisting of 1.48 acres that was idle at the time of purchase, but had previously been operated as a NAPA auto parts store. Prior to the April 2003 purchase, the Nation had not held any type of title to any land in Cayuga County or the Village since approximately 1807. In March 2005, the Nation purchased the third property, consisting of approximately 108 acres. The 108-acre parcel is primarily vacant farmland including some wooded areas. The three Village properties for which the Nation seeks trust ("Village Properties") amount to 9.67% of the Village.

The Village Properties are encumbered by various easements and other access rights that must be maintained and protected. These encumbrances include, among others:

- *Utility Easements* – Each of the Village Properties are subject to various utility easements, including those necessary for the provision of electric and gas service, telecommunication services and water and sewer services. New York State Electric and Gas ("NYSEG") has several easements over the Village Properties to provide electric and gas service thereon. The NYSEG transmission lines that cross over the Village Properties are a link in the utility infrastructure chain that provides electric and gas service throughout Cayuga County and the surrounding municipalities. Acceptance of the Village Properties into trust will interfere with NYSEG's ability to enforce and fully utilize such easements, including its ability to maintain, repair and replace existing facilities on the Properties. As a result, provision of electric and gas services to Village residents, businesses and numerous other NYSEG customers located outside the Village along the regional transmission chain will be negatively affected.

Similarly, Verizon has an easement across the Village Properties to provide telecommunication services thereon. Like the NYSEG easements, interference with Verizon's easement (e.g., the ability to maintain, repair and replace existing telecommunication transmission lines on the Village Properties) resulting from the Village Properties being placed into trust will jeopardize the continued provision of uninterrupted telecommunication services both in the Village and the surrounding region.

The Village's water and sewer easements will also be negatively affected if the Nation's Application is granted. A detailed discussion of the considerations regarding the Village's water and sewer services are contained in § IX, *infra*.

- *Oil & Gas Lease Access Rights* – The 108-acre parcel within the Village Properties contains a natural gas well that is subject to access rights held by Devonian Energy (successor in interest to Pioneer Resources, Inc., the original grantee of the easement) whereby Devonian can explore and produce oil and gas on the 108-acre parcel. These rights were assigned to the Union Springs School District (“School District”) in 1981. The School District subsequently drilled a gas well and, since then, has been utilizing the well as a source of fuel for heating its high school and district offices. The Nation’s recent refusal to accept royalty payments from the School District (as provided for in the assignment agreement between the School District and Devonian) calls into question the School District’s access rights going forward. If the School District is denied access to inspect, monitor and produce gas from the well, it will negatively affect production from the well at great cost to the School District. Moreover, the Nation’s use of the well will go unchecked if the Village Properties are accepted into trust, which will result in the depletion of the well resources to the detriment of the School District and Village residents. A detailed description of the School District’s oil and gas lease access rights is set forth in the School District’s January 23, 2006 letter to BIA Eastern Regional Realty Officer Randall Trickey.

- *Ingress and Egress Access Rights* – In the past, the Village Properties were part of a much bigger parcel that extended to the shores of Cayuga Lake. As a result, the parcel was subject to numerous ingress and egress rights allowing individuals and other entities access to the Lake. This parcel has since been reduced to the current Village Properties. However, many of the ingress and egress access rights over the Village Properties remain. If the Nation’s Application is granted, there will be nothing to prevent the Nation from unilaterally extinguishing the existing ingress and egress rights. This will negatively affect those Village residents and other entities who possess such rights.

To protect the above mentioned easements and preserve the current services provided to the Village and its residents therefrom, the Nation’s Application should not be accepted absent valid and enforceable operating agreements between the Nation and the entities possessing said easements.

III. The United States Supreme Court’s *City of Sherrill v. Oneida Indian Nation* Decision

On March 29, 2005, the United States Supreme Court ruled that the Oneida Indian Nation (Oneidas) could not “unilaterally revive its ancient sovereignty” over parcels the Oneidas had purchased in the City of Sherrill. *City of Sherrill v. Oneida Indian Nation*, 544 U.S. 197, 125 S. Ct. 1478, 1483, 2005 U.S. LEXIS 2927, at *12 (2005), *petition for reh’g denied*, 125 S. Ct. 2290, 2005 U.S. LEXIS 4317 (2005) (“*City of Sherrill*”). The Supreme Court based its decision in large part on the disruptive consequences that such a unilateral reestablishment of present and future Indian sovereign control would have. *City of Sherrill*, 125 S. Ct. at 1493, 2005 U.S. LEXIS 2927 at *43. Of particular concern to the Supreme Court was the disruption of and

serious burden to the State and local governments resulting from the exercise of tribal sovereignty and governmental jurisdiction over a checkerboard pattern of non-contiguous parcels located amid areas developed and governed by local municipalities. *Id.*

The Supreme Court pointed to the trust application process authorized by 25 U.S.C. §465 and its implementing regulations in 25 C.F.R. Part 151 as the "mechanism for the acquisition of lands for tribal communities that takes account of the interests of others with stakes in the area's governance and well being". *Id.*, 125 S. Ct. at 1493, 2005 U.S. LEXIS 2927 at *45. With this instruction to the Nation, the Supreme Court certainly could not have intended that the trust application process and decision be an automatic approval. Rather, the process must be as the Supreme Court described, "sensitive to the complex inter-jurisdictional concerns that arise when a tribe seeks to regain sovereign control over territory". *Id.*, 125 U.S. at 1494, 2005 U.S. LEXIS 2927 at *45.

A sensitive and reasoned consideration of the Part 151 factors as directed by the Supreme Court under the facts and circumstances of the Nation's efforts to exercise sovereignty and governmental jurisdiction over the parcels located in the middle of the Village compel the rejection of the Nation's Application as it relates to the Village Properties.

IV. **The 2nd Circuit's Reversal of the Cayuga Nation Land Claim Judgment**

The United States Court of Appeals for the 2nd Circuit based its reversal of the Northern District of New York's Judgment in favor the Cayuga Indian Nation of New York and the Seneca-Cayuga Tribe of Oklahoma on the Supreme Court's *City of Sherrill* decision. *Cayuga Indian Nation of New York v. Pataki*, 413 F.3d 266, 267, 2005 U.S. App. LEXIS 12764 at *4 (2nd Cir. , 2005)(*petition for cert. filed 2/03/06*)["*Cayuga Land Claim*"]. While the *Cayuga Land Claim* did not involve the reassertion of sovereignty over recently acquired lands as had been the issue in *City of Sherrill*, it was a possessory claim seeking immediate possession of land and the ejection of current owners. Because the 2nd Circuit concluded that the nature of the claim and the remedies sought were inherently disruptive, the 2nd Circuit reversed the Judgment entered by the District Court and entered judgment in favor of the defendants. Furthermore, even prior to reversal of the judgment in favor of the Nation and the Seneca-Cayuga Tribe of Oklahoma, there was no holding by the District Court regarding the current status of the land. The 2nd Circuit's decision in the *Cayuga Land Claim*, like *City of Sherrill*, requires the BIA to consider and prevent the inherent disruption that would result with the Nation's exercise of governmental jurisdiction over parcels that have been governed for over two hundred years by the State of New York and its local governments, including the Village.

V. **Cayuga Indian Nation of New York v. Village of Union Springs**

After the Nation purchased the former NAPA parcel referenced above, the Nation attempted to renovate the NAPA building for use as a Class II gaming facility. The Village issued Notices of Violation and Stop Work orders because the Nation had failed to apply for or

obtain the permits required by the Village's zoning and land use ordinances. The Nation commenced a declaratory judgment action in federal district court seeking both a declaration that the property was Indian Country and a permanent injunction prohibiting the Village from applying or enforcing its zoning and land use law on the Nation's NAPA parcel. The District Court ultimately issued the requested declaration and permanent injunction. *Cayuga Indian Nation of New York v. Village of Union Springs*, 317 F. Supp. 2d 128, 151-152, 2004 U.S. Dist. LEXIS 7108 at *65-*67 (N.D.N.Y. 2004). The Village appealed that final judgment to the Second Circuit, but before the argument of the appeal, the Supreme Court issued its *City of Sherrill* decision, *supra*. The Second Circuit, on motion by the Village, issued a mandate directing the Northern District to reconsider its permanent injunction order in light of the *City of Sherrill* decision.

The Village then filed a motion to vacate the permanent injunction and for summary judgment dismissing the Nation's action declaratory judgment action against the Village. The District Court granted the Village's motion, vacating the previously issued injunction and dismissing the Nation's action. Importantly, the District Court relied on the *City of Sherrill* decision by: (i) reasoning that the avoidance of the requirement to comply with local zoning and land use laws was even more disruptive than the avoidance of taxation at issue in the *City of Sherrill* case and (ii) holding that the "strong language in *City of Sherrill* regarding the disruptive effect on the every day administration of state and local governments bars the Nation from asserting immunity from state and local zoning laws and regulation". *Cayuga Indian Nation of New York v. Village of Union Springs*, 390 F. Supp. 2d 203, 206, 2005 U.S. Dist. LEXIS 22536 at *8-*9 (N.D.N.Y. 2005) ["*Village of Union Springs*"].

The federal court has already determined that immunity from local land use regulations for the NAPA property alone would be disruptive to the Village. The BIA should respect that decision and deny the Nation's Application which seeks that same immunity, only by another method, for the Village Properties.

VI. Statutory Authority for Trust Acquisition:

25 U.S.C. §151.3 provides that:

Land not held in trust or restricted status may only be acquired for an individual Indian or a tribe in trust where such acquisition is authorized by an act of Congress. (*emphasis added*)

The Nation submitted its Application claiming the 1934 Indian Reorganization Act, 25 U.S.C. §465 as the Congressional act authorizing the trust acquisition. 25 U.S.C. §465, however, provides only general authority for the Secretary of Interior to take land into trust for Indians and Indian tribes. 25 U.S.C. §465 is not, itself, the Congressional authorization required for a specific acquisition by a tribe. See Survey of Interior Board of Indian Appeals Case Law on Land Acquisition, § I "Authority To Acquire Land In Trust For Indians", Priscilla A. Wilfahrt, Bureau of Indian Affairs Realty Training, April 2004; see also, e.g., *Campo Band of Mission*

Mr. Franklin Keel
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Indians v. United States, 2000 U.S. Dist. LEXIS 7269, at *8-*11 (D.D.C. May 24, 2000);
Confederated Salish and Kootenai Tribes v. Norton, 35 I.B.I.A. 226 (November 9, 2000).

Here, there exists no federal statute authorizing the Department of Interior to acquire any land in trust for the Nation. Absent the required Congressional acquisition authority, the Nation's Application must be denied.

VII. Current Status of Nation's Village Properties

On April 14, 2005, the federally recognized representative of the Cayuga Nation submitted the Nation's Application for fee-to-trust acquisition to the BIA for of the Village Properties, as well as two other parcels owned by the Nation in Seneca County. The Department of Interior provided notice to the Village of the Nation's Application regarding the gas station/convenience store and car wash property by way of a letter dated November 30, 2005 (received by the Village on December 5, 2005) and a notice regarding the former NAPA parcel and the 108-acre property by way of a letter dated December 21, 2005 (received by the Village on December 27, 2005).

The Nation, in its cover letter to the Application, claimed that the Village Properties are "Indian Land" as defined under 25 C.F.R. §150.2(h) and are within the reservation acknowledged in the 1794 Treaty of Canandaigua. However, the definitions of 25 C.F.R. Part 151, not the definitions in 25 C.F.R. 150, apply to trust applications. The properties do not satisfy the definition of "Indian reservation" set forth in 25 C.F.R. §151.2(f) because: (i) there is no Congressional authorizing act providing some "other definition" of reservation; (ii) the lands are not lands over which the tribe is recognized by the United States as having governmental jurisdiction (*see Village of Union Springs, supra*, 390 F. Supp. 2d at 206, 2005 U.S. Dist. LEXIS 22536 at *9) and (iii) the lands are not lands where there has been a final judicial determination that a reservation has been disestablished or diminished (*see Cayuga Land Claim, supra, petition for writ of certiorari* filed by the Cayuga Indian Nation of New York, the Seneca-Cayuga Tribe of Oklahoma and the United States on February 6, 2006).

Based on the status of the Village Properties and in spite of that the Nation's Application reference to the factors set forth in 25 U.S.C. 151.10 for "on reservation" acquisitions, the Nation's Application must be evaluated as "off-reservation" parcels under 25 C.F.R. §151.11 and be considered under the heightened scrutiny applied to "off-reservation" applications.

VIII. Village's Comments Responding to the BIA's Notice

The BIA's letters, providing the Village notice of the Nation's Application, invited the Village's comments on the proposed acquisition and specifically requested information regarding the amount of property taxes currently levied on the property, any special assessments against the property, any governmental services currently provided to the property by the Village and the

current zoning status regarding the property. The Village provides the following information in response to that request:

1. The annual amount of property taxes currently levied on the property: for all three Nation-owned properties, the 2006 tax bill was \$6,724.13 which amounts to 3.4% of the total tax levy for Village parcels.
2. Special Assessments currently assessed against the property: none as to the three Village Properties.
3. Any governmental services currently provided to the property by the Village: the Village provides fire protection and ambulance services, water and sewer services and comprehensive planning and land use services.
4. How the property is currently zoned:

The 2 acre property containing the gas station/convenience store and car wash is zoned commercial.

The 1.48 acre property on which the former NAPA store, Nation gaming facility is located is zoned industrial.

The 108-acre property that is currently farmland and wooded land is zoned industrial.

Under the Village's Zoning Ordinance, both the commercial and industrial zones are subject to obtaining special permits for certain uses and are prohibited altogether from certain other uses.

Further discussion of the property taxes, special assessments, governmental services provided and zoning issues set forth below under separate headings.

IX. Village's Comments addressing the §151.11 factors to be considered by the Secretary for "off reservation" trust acquisitions

Section 151.11, like §151.10, states that the Secretary shall provide the State and local governments thirty days to provide written comments regarding the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. The Village will provide its written comments on these three areas before it comments on each of the factors identified in §151.11 as factors to be considered by the Secretary in her evaluation of the request for the acquisition of "off reservation" lands into trust status.

RE: POTENTIAL IMPACT ON REGULATORY JURISDICTIONS

As the United States Supreme Court reasoned in *City of Sherrill* and as the District Court held in *Village of Union Springs*, a checkerboard of alternating State and Tribal jurisdiction in the Village would seriously burden the administration of local government. Specifically, accepting the Village Properties into trust (and thereby creating the jurisdictional checkerboard which the Supreme Court sought to avoid) would cause severe jurisdictional problems and potential conflicts of land use, thereby negatively affecting the Village's provision of fire protection services, water and sewer services, comprehensive community development and planning services and enforcement of land use and zoning laws and regulations.

Law Enforcement and Police Protection

The Village does not maintain its own police force. Rather, the Village relies on Cayuga County and the State of New York to provide law enforcement and police protection. The Nation has no police force for the Village Properties. Yet, if the Village Properties were taken into trust and if the Nation asserted immunity from local and State police jurisdiction, the Cayuga County Sheriff's Department and the New York State Police would be forced to address all ensuing lawlessness and jurisdictional problems on the Village Properties. Such lawlessness and jurisdictional problems will expose the Village to conflicts and dangers not otherwise present. Specific examples include, among others,:

- the lack of County and State law enforcement jurisdiction on the Village Properties;
- the lack of County and State law enforcement jurisdiction over any suspect who flees police pursuit onto a Village Property;
- County and State law enforcement protection for non-Natives who enter, visit or work on a Village Property;
- County and State law enforcement of Village Ordinances in checkerboard jurisdictional situations;
- County and State law enforcement of State law preventing the purchase of cigarettes by minors at the Nation owned gas station/convenience store.

Based on these jurisdictional problems, the Nation's Application should be denied absent a law enforcement agreement between the Cayuga County Sheriff's Department, the New York State Police and the Nation.

Fire Protection and Emergency Services

The Village, in conjunction with the Town of Springport, formed the Springport Fire District which operates the Union Springs Fire Department ("Fire Department"). The Fire

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Department is a volunteer organization comprised of forty-five members. The Fire Department and its related organization, the Union Engine and Hose Company, provide all fire and ambulance services to the Village and to the surrounding Town of Springport. The Fire Department is supported primarily by a fire tax that is assessed on the real property within the District and secondarily by fundraisers such as dinners, raffles, annual field days and community donations. The ambulance service has also been supported by the fund raising efforts of the Town and Village. The fundraisers were the source of the revenues for the purchase of the ambulance. Fuel, maintenance and medical supplies for the ambulance are paid for by the Town and Village tax payers. The cost of the Village's maintenance of fire hydrants is included in real property taxes and thus borne by Village tax payers.

The Nation has no fire protection or ambulance services. The Nation relies on the fire protection and ambulance services provided by the Fire Department. If the Nation refuses to pay the real property taxes on the Village Properties, it will not share in the costs of providing such services protecting the Village Properties. Further, there are currently no agreements between the Nation and the Village for the provision of fire and emergency services by the Fire Department to the Nation on the Village Properties. The absence of such agreements results in obvious dangers and increased risks to the Village Properties and adjacent non-Nation properties. The burden of maintaining the Fire Department and its ambulance service rests solely with the Village and Town of Springport's tax payers.

If the Village Properties are accepted into trust, the Fire Department will lose its ability to enforce compliance with Village, County and State safety and fire codes on the Village Properties. Fire and safety codes have developed historically in response to terrible tragedies that demanded our collective attention following the loss of life. The promulgation of safety and fire codes has reduced the risks associated with fires and firefighting. Non-compliance with such fire and safety codes will result in heightened risk of injury and death. Furthermore, the lack of jurisdiction over the Village Properties will include a lack of jurisdiction to enter onto those properties for the purpose of responding to fire or medical incidents. Delays resulting from the lack of authorization to enter onto and respond to fires on the Village Properties will increase the dangers presented and the damages and injuries incurred.

Fire protection and fire fighting risks are also heightened when development (commercial and residential) proceeds free from the regulatory framework in the community at large. Outside a regulatory framework, hydrant services or other water supplies for fire fighting have not been evaluated in terms of capacity and needs. Unfettered development may result in economic growth opportunities for the Nation, but it results in increased risks to fire fighters and neighbors of the Village Properties.

The Nation's Application regarding the Village Properties should be denied in the absence of an enforceable Village/Town-Nation fire protection agreement covering fire protection and emergency services.

Land Use/Zoning Concerns

The Village has a Comprehensive Plan (currently in the amendment process) which provides the basis for all future planning and development within the Village. Long-term planning for a community that is subject to "out-parcels" (e.g., the Village Properties if taken into trust) would be difficult at best and completely ineffective in a worst case scenario. Included within the Village's Comprehensive Plan are various land-use and zoning ordinances, all of which were created to guide future growth and development in accordance with the Comprehensive Plan. Specifically, the Comprehensive Plan is designed to be implemented by the Village's Zoning Ordinance, Subdivision Regulations, Mobil Home Ordinance and New York State Building Code which was adopted by the Village.

The Village's Zoning Ordinance seeks to promote the health, safety and general welfare of the community by regulating and restricting dimensions and uses in accordance with §7-700 of New York Village Law. Specifically, New York Village Law §7-700 provides that the Village is empowered to regulate the height and size of buildings, percentage of lot that may be occupied, size of courts or open spaces, density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes. In addition, as part of a comprehensive plan and design, §7-700 empowers the Village to regulate and restrict historical landmarks and sites, as well as other places used for conservation, protection, enhancement and preservation of natural heritage. The Zoning Ordinance provides for the development of the Village as a predominantly residential community, with supporting commercial, industrial and recreational facilities. The Zoning Ordinance requires special permits when a particular use (e.g., vehicle-related businesses, drive-through facilities, continuing-care facilities, industrial uses) poses adverse environmental impacts that could affect neighboring properties (e.g., smoke, dust, noise, heavy truck traffic, negative visual characteristics). Conditions are placed on the use, by the special permit, that are designed to mitigate potential adverse impacts. In furtherance of the overall Zoning Ordinance goals, the Zoning Ordinance also regulates the placement, size, construction and content of all signs within the Village. Permits for signs are required under certain circumstances. All of the goals and objectives of the Zoning Ordinance would be thwarted if the Nation is allowed to build and operate without Zoning Ordinance compliance.

The Village also has a Site Plan Review and Approval Law that operates in conjunction with the Village's Zoning Ordinance to ensure orderly growth and development. This law authorizes the Village Planning Board to review and approve (or approve with modification or disapprove) site plans required for any applications for use variances, any subdivisions of vacant land that result in the creation of three or more lots, and the construction of or exterior alteration of any structure or building for which a building permit is required. All applications for preliminary site plan approval must be in writing and must be accompanied by a fee.

The Village adopted Subdivision Regulations to protect the character and the social and economic stability of the Village and to encourage the orderly and beneficial development of the community. The Subdivision Regulations empower the Village Planning Board to review and approve/disapprove proposed subdivisions in the Village.

Compliance with the provisions of the Comprehensive Plan is absolutely necessary to preserve the character and quality of life presently enjoyed in the Village. Exempting part of a municipality from the entire jurisdictional purview of zoning and land use laws defeats the benefits of a Comprehensive Plan. The fact that the greater part of the land for which trust status is sought is presently undeveloped and open to new, and potentially unregulated development, creates great concern for the Village. The interests of those owning, living, or using land adjacent to, nearby, downstream, or downwind of any and all future development on parcels placed in trust will be unprotected. This untenable situation will occur if the Village Properties are taken into trust. The Village's Comprehensive Plan will be rendered useless if the Nation's Application is approved and the Village's planning-related regulations and ordinances are unenforceable. There will be no enforcement mechanism to ensure the Nation's compliance with laws and regulations governing health, safety, and aesthetic issues, let alone any chance of preserving and/or enhancing the character of the neighborhood/surrounding area in which a Nation development project takes place.

Water Service

The Village's water supply is located within the Village, on State Route 90, directly across from the Union Springs High School. The water supply is provided by two drilled wells and two well houses. The Village has approximately 445 metered water customers. To support this water system and its delivery of water to these customers and customers in the Town of Springport, there are seven pressure-reducing pits in the Village, two water storage tanks and approximately eight miles of water mains running through the Village. The Village has an investment of over \$3.5 million in this water system

The Village's provision of water to parcels owned by the Nation and its members is currently metered and billed the same as any other Village water customer. However, unlike the Village's other customers, non-payment of the water bills by the Nation and/or its members cannot be recovered through real property tax bills. The Village's only options for non-payment of water services by the Nation or its members are to turn off the water service or to classify as uncollectible any bills on individual accounts on certain Nation properties.

Significant water service problems will arise if the Village Properties are taken into trust. Examples of such problems include the following:

- *The Village of Union Springs Water Department's existing water transmission main crosses the Village Application Parcels* – The Village's water main is located on a 50 foot right-of-way within the Village. Existing New York State law requires prior notification of proposed excavation near a water main. The placement of the Village Properties into trust would exempt the trust property from State notice requirements and increase the risk of damage to the Village's water main.
- *Unregulated construction and alteration of buildings in the Village without conformance to the Village and New York State building code requirements exposes the Village's water system to the hazards of cross-connection* – Cross-

connection controls prevent backflow into the water system in case of low pressure conditions. The Nation must select and enforce building standards, equipment requirements and cross-connection control strategies that meet the minimum requirements for cross-connection to avoid risks of contamination of the water supply. Without a consolidation of holdings and a single service connection, preservation of the Village's current water service standards to these facilities would be impossible.

- *The Village is presently at its water supply limit* – Any unregulated construction of new facilities and the alteration of buildings without local review will result in excessive demands upon the Village's current water supply which, in turn, will result in significant pressure decreases. Furthermore, the Village and the Town of Springport entered into a Municipal Cooperation Agreement for Water Supply and Water Service ("Water Agreement") whereby the Village provides water from the water treatment facilities in the Village at a specified average residual water pressure to the Town of Springport at two existing water connection in the Village and at future connections to be agreed upon by the Village and Town of Springport. This Water Agreement provides for the replacement, additions, betterments and allocation of use would require approval of both the Town and Village so that the demand for potable water would not exceed capacity and would continue to provide the required pressure. Should the Village Properties be accepted into trust without provision for compliance with the terms of the Water Agreement, and should the Nation be able to develop the trust land without compliance with existing Village, Town and State regulations pertaining to water supply and water service, the water supply and water service to the Village and Town of Springport would be disrupted without recourse.
- *Permitting Issues* – It is the building permit application process that triggers the Village's review and consideration of the potential impact of the permit request. Non-permitted water hook-ups impact the Village's water services as described above. This situation will only be exacerbated if the Village Properties are taken into trust.

Sewer Services

The Village provides sewer and waste water treatment and other sewer services to all properties located within the Village and, pursuant to a Municipal Cooperation Agreement for Sewage, Waste Water and Sewer Service with the Town of Springport ("Sewage Agreement"), to all properties within the Town of Springport. The Sewage Agreement limits the origination of the sources of sewage and waste water to the Village and Town of Springport and requires that all Village, County and State standards for sewage and waste water be met. The Village currently has sewer line easements on the Village Properties.

To ensure the health and safety of all residents and to enhance and protect future Village and Springport development plans, all sewer standards, requirements and easements must be

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fully protected. If the Village's sewer easements and access rights are not protected and if the Village, County and State standards for sewage and waste water are not complied with by the Nation, the Village's sewer system will be compromised. The health and safety issues associated with an unregulated sewage and waste water treatment and service system are obvious. The BIA must not accept any Village Property into trust without protection for and compliance with the current sewer system.

RE: POTENTIAL IMPACT ON REAL PROPERTY TAXES:

The current assessed value on the Nation's Village properties is \$1,793,100, or 3.4% of the total taxable Village assessment of \$53,284,308. Until yesterday when the Nation paid its past due real property taxes, the lost revenue (including interest and penalties) resulting in the Nation's non-payment of taxes assessed against the Nation's Parcels in the Village was \$10,368.34. The current 2006 taxes on Nation-owned parcels within the Village amount to approximately \$6,724.13 and constitute 3.4% of the total tax levy. This amount is subject to change pending finalization and approval of the Village budget, including the new tax rate.

While the amounts may not seem significant, to a small village with a budget of under five hundred thousand dollars, the amounts are significant. Also not to be ignored is the extra tax burden that will be placed on the Village's tax payers. In a small rural village with modest income levels, the imposition of additional taxes because of the refusal of the Nation to pay taxes will create ill-will, if not hostility.

RE: POTENTIAL IMPACT ON SPECIAL ASSESSMENTS:

There are no special assessment on the Village Properties, but there are special assessment on 28 parcels (units) along the Springport Cove Road which is located directly west (toward Cayuga Lake) from the Nation's 108-acre property. See Exhibit 4 (New York State Department of Environmental Conservation Map, with annotation showing the location of the Nation's three properties, the Fire Department and High School). Those special assessments were levied to recapture the capital costs for installing the sewer lines that service the twenty eight units along Springport Cove Road. The special assessment per unit is \$360 per year. If the Nation were to purchase any of those parcels subsequently as part of the "surrounding properties" they intend to purchase, the special assessments on said parcels would not be collectible, leaving the benefits of the capital improvement for all (including the Nation), but the cost to borne only by the tax payers.

RE: 151.11 FACTORS TO BE CONSIDERED BY THE SECRETARY:

Because the Nation's three Village Properties are neither a Federal reservation nor a State reservation, this trust Application must be evaluated as an "off-reservation" acquisition under 25 C.F.R §§151.4 and 151.11.

25 C.F.R. §151.4 provides as follows:

Acquisitions in trust of lands owned in fee by an Indian.

Unrestricted land owned by an individual Indian or a **tribe** may be conveyed into trust status, including a conveyance to trust for the owner, subject to the provisions of this part.
(*emphasis added*)

As instructed by §151.11(a), the evaluation under §151.11 involves consideration of the factors set forth in §151.10 (a)-(c) and (e)-(h), plus the criteria set forth in §151.11(b)-(d).

The Village's comments to these seven §151.10 criteria are set forth below:

§151.10(a): statutory authority for the acquisitions and any limitation in the statutory authority

The lack of the specific Congressional statutory authority for the Nation's Application by the Nation is addressed *supra* in §VI, beginning on page 5. The lack of specific statutory authorization for the acquisition requested by the Nation precludes acceptance of the Nation's Application.

§151.10(b): Tribe's need for additional land

The Nation makes no statement of need. Rather, the Nation states that the acceptance of the Application will allow the Nation to re-establish a presence in this area which has historical significance to the Nation and to purchase additional lands around the Village Properties with its anticipated future gaming revenue. The Nation, however, has failed to state any need the Nation may have for the Village Properties, other than for an opportunity to operate a gaming facility which will be a source of revenue to purchase additional lands around the Village Properties that are the subject of the Application. To provide a gaming opportunity and to provide a revenue stream for the purpose of buying additional land in the Village are not statements that satisfy §151.10(b). Such deficiencies should result in a rejection of the Application.

§151.10(c): purpose for which land will be used

The Nation states that the purposes for which the Village Properties will be used are precisely those purposes for which the Nation used the Village Properties in April 2005, to wit, a gas station, car wash and gaming facility. While the Nation currently operates a gas station/convenience store and car wash on the 2 acre parcel, it ceased using the NAPA property as a Class II high stakes bingo facility following the ruling in *Village of Union Springs, supra*, that the NAPA property was subject to local regulation (which would, of course, preclude the

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otherwise illegal activity of commercial gaming). The Nation states that it has no plans for the currently vacant 108-acre property.

§151.10(e): for land that is currently in unrestricted fee status (as here): impact on the Village resulting from removal of the Village properties from taxes rolls

The Nation's Application asserts in its discussion of §151.10(e) that the Village Properties are "not currently receiving any direct town, county or state services" and that "taking the Property into trust will have little to no impact on town, county or state services". Such assertions are plainly and certainly not true. The Nation could not, and did not, make the same assertions regarding Village services. As previously discussed, the Nation's Village Properties receive fire and ambulance services, the costs of which are assessed to property owners on their property taxes. The failure of the Nation to pay its real property taxes means that the other Village and Town of Springport real property tax payers are bearing the costs for services provided to the Nation and its properties. If the Village Properties are accepted into trust, there will be no means to collect the assessed costs for fire and ambulance services.

The same is true for water and sewer services provided by the Village. If the parcels are accepted into trust, the Village will have no means of collecting fees for these services. The only option for the Village would be to deny water and sewer services, an option that would clearly have deleterious effects on neighboring properties and the Village as a whole. Furthermore, the Village and Town of Springport municipal cooperation agreements regarding water and sewer services would be undermined, if not destroyed, if the Nation's Application were to be accepted without specific compliance protections.

Additionally, the services provided by the County and State, especially community health, law enforcement and environmental protections, are essential to preserve the quality and safety of the Village environment and residents. Immunity from regulation and conformity with Village, County and State laws and regulations will create disruption and safety problems for the Village.

The Nation's discussion of unspecified future changes in the use of the Village Properties and its speculation that potential impacts will "most likely" be addressed before any changes in existing uses provide no alleviation in the Village's legitimate concerns. While the BIA may not be able to reject the Application solely based on a Village's concerns about future unspecified development, the BIA is certainly able to limit or condition acceptance of properties located within the Village on compliance with all local and State regulatory schemes. Absent such limitations and conditions, the Village will be exposed to unregulated activities and development, the gravity of which is discussed throughout this Comment.

The potential impact on the Village resulting from removal of the Village properties from the tax rolls has been discussed above on page 14 in the section entitled "RE: POTENTIAL IMPACT ON REAL PROPERTY TAXES".

§151.10(f): jurisdictional problems and potential conflicts of land use

The Village has addressed this factor in §VIII, *supra*, in the section entitled "RE: POTENTIAL IMPACT ON REGULATORY JURISDICTIONS" beginning on page 9. In addition to those previous comments, it must be noted that the Nation's claim that the United States and the Nation will have concurrent civil and criminal jurisdiction over activities on the Village Properties if those properties are accepted into trust does not eliminate the problematic issues raised in §VIII. The Nation currently has no police force and it borders on mystical thinking to believe the United States Marshals will provide a police presence for the Village Properties. Particularly alarming is the Nation's indication of its intent to acquire additional lands around the Village Properties. The property surrounding the Village Properties consists of farmland and some small commercial properties. Such additions to the Nation's landholdings could exacerbate the concerns discussed throughout these Comments. The Nation cannot be permitted to exercise governmental jurisdiction over the Village Properties, or any properties around those Village Properties, because of the disruptive and destructive effects its exercise of governmental jurisdiction would have on the Village, its residents, its development, its resources and its natural and human environment.

§151.10(g): whether the BIA is equipped to discharge the additional responsibilities resulting from the trust acquisition of the Village Properties

The Nation states that taking the Village Properties into trust "should not result in a significant increase in BIA's workload because the Nation is not proposing any change in use that would require the expenditure of additional BIA funds or resources". Such a statement is disingenuous at best.

Currently the United States holds no lands in New York State in trust or in restricted status for the Nation or any other Indian tribe. The United States has never had a role in administering Nation lands in Cayuga County or in the Village. Since colonial times, the parcels have been administered by the existing governmental entity, first by the colony and subsequently by the State and its local governmental units. Currently, there is no BIA expenditure associated with administering any trust lands in New York. There is no BIA staff or BIA office within New York. The Eastern Regional Office is now in Nashville, Tennessee, more than eight hundred miles from the land to be administered if it were accepted into trust.

The question to be addressed in evaluating §151.10(g) is whether the BIA is capable of handling the responsibilities it would incur should the Secretary of Interior accept the lands into trust. The Village respectfully submits that the BIA is not equipped to handle the burdens of administering to additional land so distant from its offices. The BIA's inability to administer trust property in New York State, where there are no other trust lands and no BIA staff, and the BIA's inability to handle the additional responsibilities resulting from such a trust acquisition

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should weigh heavily against and, in fact, should preclude the trust acquisition requested by the Nation.

§151.10(h): extent to which Tribe provided information to the Secretary so she can comply with NEPA

The Nation claims that Phase I Environmental Site Assessments were conducted on the Application parcels prior to the Nation's acquisition and that no evidence was found of any release, discharge or presence of any contamination on the parcels or on surrounding properties. No other specifics about the assessments were presented. There is no specific statement about assessments relating to the Village Properties and that omission may be intentional. There is a contamination plume, of unknown origins, that has contaminated the water wells and surrounding aquifer and has required treatment of water by the Village. That contaminated area includes both the Village Properties and the surrounding properties.

The Village certainly cannot rely on conclusory statements by the Nation regarding the existing environmental conditions. No matter the existing conditions, permitting the Nation unregulated development and activity on the Village Properties (one of which is an operating gas station) threatens the environment on the Village Properties and beyond.

Noteworthy in this regard, it appears that the Nation failed to submit environmental information to the BIA sufficient to enable the Secretary of Interior to comply with NEPA. As a result, the BIA will be conducting an EIS scoping hearing in Seneca County on March 1st, apparently similar to those held in the context of the Oneida Nation trust application. The Village reserves its right, and will insist upon exercising that right, to submit a separate comment on compliance with NEPA following such EIS scoping hearings.

The Nation further claims that whatever site inspections were conducted did not locate any wetlands and did not find any historically significant resources, threatened or endangered species or other areas of special concern. Such a statement underscores the unreliability of the environmental assessment the Nation references and demonstrates the Nation's ignorance of the Village in which it seeks to acquire trust land.

The Village is located on the shore of Cayuga Lake, the longest of the Finger Lakes. See Exhibit 5 (U.S.G.S. map of the Finger Lakes). The Village is within the watershed for Cayuga Lake. The watershed has steep slopes requiring that all development be controlled in order to limit pollution of Cayuga Lake. Additionally, Cayuga Lake and the abutting lands provide habitat and sanctuary for many fish and migrating species, many of which are protected by State laws. Contrary to the Nation's assertions, there are wetlands within the Village and those wetlands require that any person wishing to conduct an activity in a wetland or regulated adjacent area obtain a permit from the State or Federal government. In fact, there are two designated wetland ponds on the Nation's 108-acre parcel and one wetland pond on the border of the gas station/convenience store property. See Exhibit 4 (New York State Department of Environmental Conservation Map showing wetlands, with annotation showing the location of the

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Nation's three properties, the Fire Department and the Union Springs High School). Compliance with all wetlands regulation is paramount. Trust status could threaten and, potentially, destroy the protections afforded wildlife and wetlands. Such can not be permitted.

Pursuant to §151.11, when the BIA is evaluating a trust application for "off reservation" land, the BIA is obligated to evaluate the §151.10 factors subsumed in §151.11 with greater scrutiny than that afforded under §151.10 where a presumption in favor of the acquisition seems to operate. As is ever so clear from the discussion of these factors, when the §151.10 are scrutinized, the Nation's Application must be denied.

Section 151.11 sets forth three factors that must be evaluated in addition to the seven §151.10 factors discussed above:

§151.11(b): as the distance between the Tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the Tribe's justification of anticipated benefits from the acquisition and the Secretary shall give greater weight to §151.11 (d) concerns

As mentioned previously, the Nation has no reservation in New York. Members of the Nation reside by invitation and consent on Seneca Nation land in western New York. Under §151.11(b), the Secretary must give greater consideration and greater weight to regulatory jurisdictional problems and real property tax issues. As set forth above, taking the Village Properties into trust creates very serious regulatory and jurisdictional problems. Furthermore, the impact on the Village and Town of Springport tax payers would be burdensome. Specifically, in a small village, removal of commercial properties and a 108-acre undeveloped parcel from the real property tax rolls, from governmental jurisdiction and from regulatory compliance will result in lost revenue to support services and disruption in the governance of the community. When the heightened scrutiny required by §151.11(b) is applied to §151.11(d), the Secretary must reject the Nation's Application.

§151.11(c): if land is acquired for "business purposes", the Tribe must provide a plan specifying anticipated economic benefits associated with the proposed use.

The Nation claims that its request for trust status is for the purpose of reestablishing its presence in its aboriginal and former reservation territories, that the Nation will continue to use the Village Properties for their current uses (gas station, car wash, gaming and campgrounds) and that there are no immediate plans for expansion. Yet the Nation's Application also speaks of future development and future acquisitions of additional land without any specificity and without any stated business purposes. In spite of the current gas station and car wash businesses, the Nation submitted no business plans in regard to those businesses even though there is no exemption set forth in the regulations for businesses currently operating. Furthermore, following the court determination that the Village, not the Nation, has the right to exercise governmental

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jurisdiction on the Village Properties, the Nation voluntarily ceased its operation of its Class II high stakes bingo gaming facility. The Nation has repeatedly stated that it intends to operate gaming on the Village Properties if trust status is granted. The Nation, therefore, must submit a business plan for its intended gaming operation. Section 151.11(c) requires a business plan for each business it intends to operate. The Nation's failure to comply with this requirement weighs heavily against the granting of the Nation's Application.

§151.11(d): contact with the State and local governments pursuant to §151.10(e) and §151.10(f) must be completed as follows: after receipt of the Tribe's written request to have lands taken into trust, the Secretary of Interior must notify the State and local governments having regulatory jurisdiction over the land that each will have 30 days to comment as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

The Village has commented above on the negative impacts that the acquisition of the Village Properties would have on Village regulatory jurisdiction, real property taxes and special assessments. The impacts articulated above must, pursuant to the directive of §151.11(b), be given greater weight under §151.11 than under a §151.10 "on reservation" application. The problems identified in the Village's previous discussion of jurisdictional problems, land use conflicts and real property tax loss consequences compel a rejection of the Nation's Application.

While the Nation's interest in reestablishing its tribal presence in its historic homeland might be laudable, attempting such a reestablishment along with an assertion of sovereignty and a right to exercise governmental jurisdiction in the middle of a small Village in open derogation of existing State, County, Town and Village governments would be extraordinarily disruptive and destructive. An effort to operate a gaming facility and receive the riches associated with such cannot be disguised as an opportunity to reestablish the Nation. The Application as it applies to the Village Properties must be seen for what it is. The BIA and the Department of Interior should not condone such efforts.

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X: Additional Comments

In addition to all of the §§151.10 and 151.11 factors commented upon by the Village, the Village is compelled to comment on the Title Examination requirements set forth in 25 C.F.R. §151.13. If the Secretary of Interior were to decide that she will approve the Nation's request, she must require the Nation to furnish title evidence meeting the Department of Justice standards for the preparation of title evidence applying to land acquisitions by United States. These standards require physical inspection of the land and certification that the title is free from liens, free from any adverse possessory or other interests in the land, free from vested or accrued rights affecting water, mining, agriculture, manufacturing and mineral development. Further, after title is examined and satisfies the title evidence required by the Department of Justice, the Secretary must notify the Nation of any liens, encumbrances or infirmities on the parcels prior to taking final approval action on the Application. Ultimately, the Secretary must require elimination of the liens, encumbrances and infirmities prior to such approval of the Application if the liens, encumbrances or infirmities make title in the land unmarketable.

The Nation's parcels cannot be accepted, even if otherwise subject to approval, until all liens are removed. Yesterday, February 9, 2006, the Nation paid over one hundred seventy five thousand dollars for its delinquent and current tax bills in both Cayuga and Seneca Counties. The Nation's attorney acknowledged that the Nation had "no alternative having decided to pursue the trust process". See Exhibit 6, copy of newspaper article dated 2/10/06 reporting the same.

Even with the payment of real property taxes and the satisfaction of the liens associated thereto, the rights-of-way and easements, both private and public, that encumber the Village Properties must be protected and ensured before the lands can be taken into trust. The Nation purchased the Village Properties subject to all existing easements and rights-of-way and the Nation can not unilaterally disavow those land interests. Prior to any final acceptance action, the Secretary must determine that there are no tax liens or other encumbrances and that all easements and rights-of-way on the Village Properties have been protected. Otherwise, the Secretary would be preclude from taking final action to approve the Nation's Application.

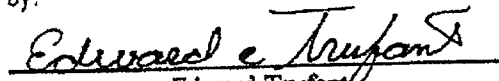
Mr. Franklin Keel
February 10, 2006
Page 22

Conclusion

The Village of Union Springs is vehemently opposed to the Nation's Application, for all of the reasons set forth herein. The Village appreciates your reasoned consideration of its written comments. If you have any questions or if additional information would be helpful, please contact the undersigned at the address or telephone listed above.

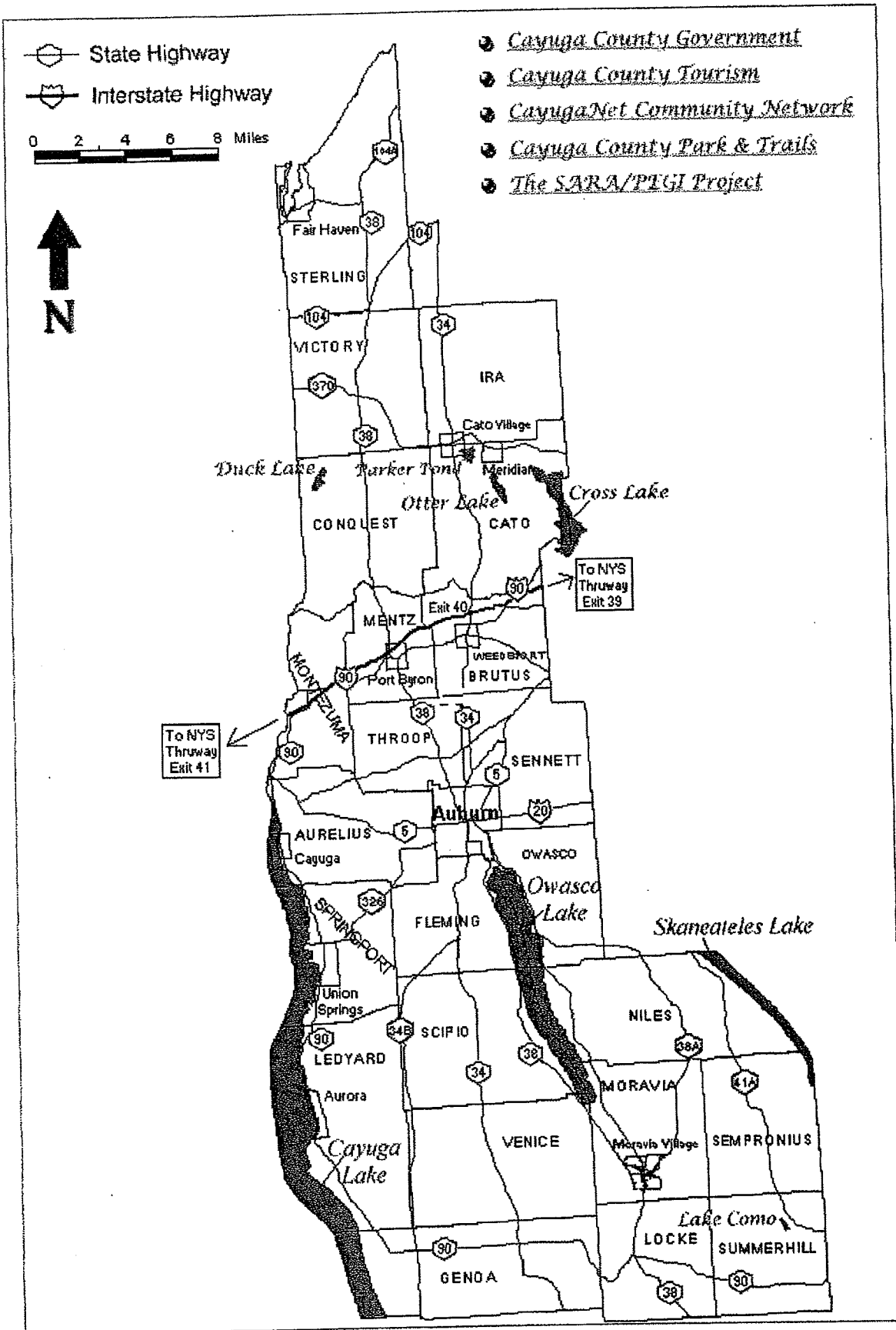
Respectfully submitted,

Village of Union Springs, New York
by:


Edward Trufant
Mayor

EXHIBIT

“1”



EXHIBIT

“2”

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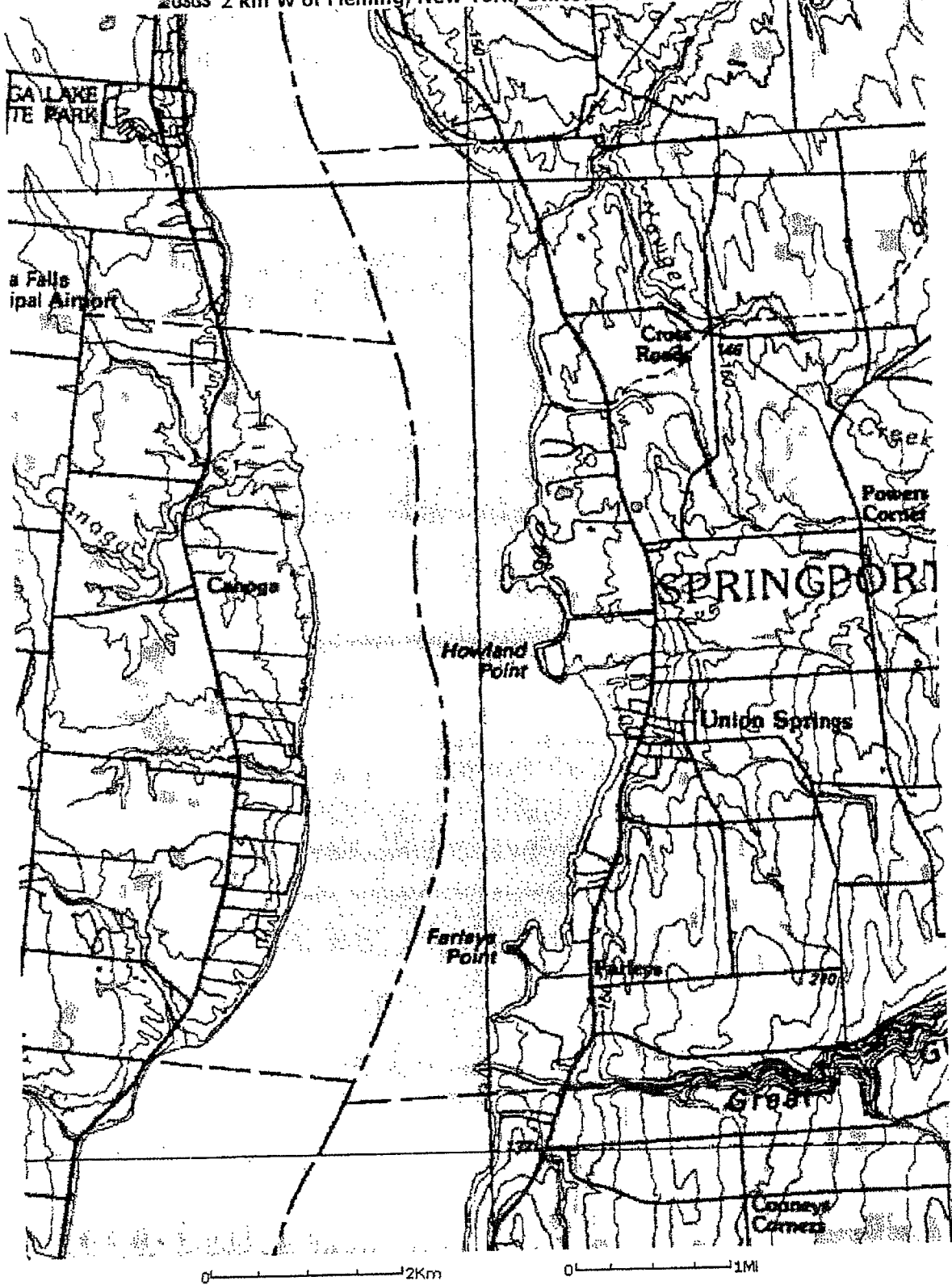


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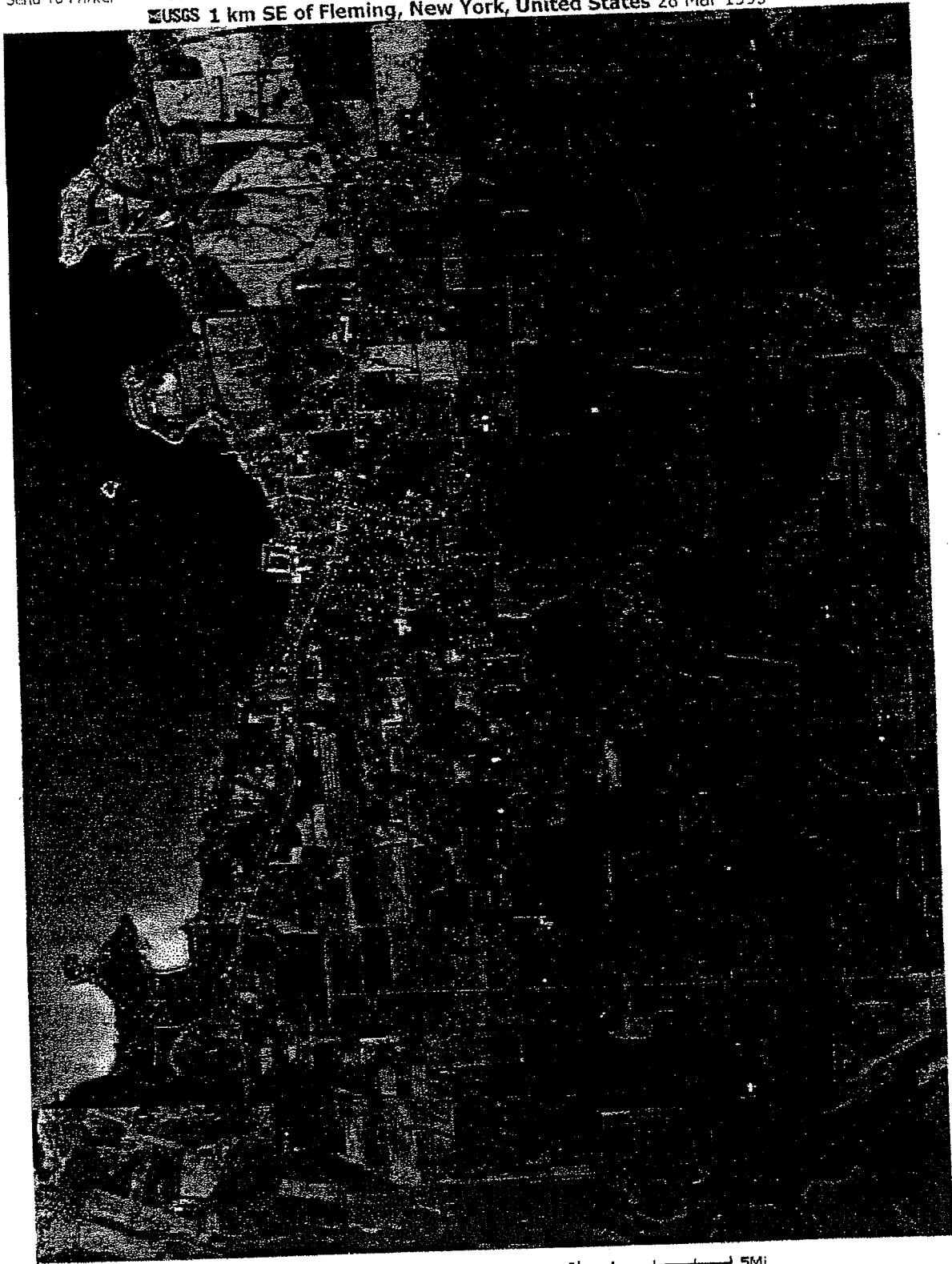
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USGS 1 km SE of Fleming, New York, United States 28 Mar 1995



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EXHIBIT

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EXHIBIT

“5”

EXHIBIT

“6”

REGIONAL NEWS

Cayuga nation pays property tax bills

The move is part of the tribe's strategy to put its land into federal trust.

By Scott Kepp
Staff writer

The Cayuga Indian Nation of New York Thursday paid its \$175,000-plus delinquent and current property tax bills in Cayuga and Seneca counties in an attempt to never pay them again.

The Cayugas have applied to put all their land holdings into federal trust, which if approved, would make them free from taxes, local laws and zoning regulations. First, though, they had to make their taxes current to qualify for that status from the federal Bureau of Indian Affairs. It's the first time the tribe has paid its property taxes.

The Cayuga nation recognizes that a requirement of the trust process is to eliminate any potential liens against the property. Today's actions are a step in that direction, said Syracuse lawyer Daniel French, who represents the tribe.

"Quite simply," he added, "the Cayuga nation has no alternative having decided to pursue the trust process."

Elected leaders of both county governments, which oppose the tribe's trust application, said they recognized the Cayugas' motive for paying their taxes. "That's not a good faith effort on the part of the Cayugas... They're just doing what they had to do to move the process forward," said Robert Shipley, chairman of the Seneca County Board of Supervisors.

Legislature Chairman George Fearon agreed. "I understand the motive. The problem is... that they would never pay (taxes) again while everybody else continues to pay."

All told, the Cayugas paid \$178,313.01.

The tribe owns high-stakes video gaming halls, which they have temporarily closed, and combination gas stations and convenience stores in both counties. The Cayugas also have a carwash and two parcels of vacant land in Union Springs and a campground in the town of Seneca Falls.

Until Thursday, the Cayugas had refused to pay taxes because they said their land should be tax-free because it lies in their ancestral homeland in both counties.

However, the 2nd Circuit U.S. Court of Appeals last year dismissed their land claim to some 64,000 acres in both counties and nullified their \$247.9 million land-claim judgment because the court said they had waited too long to reclaim the land.

Meanwhile, the Seneca-Cayuga Tribe of Oklahoma co-plaintiff in the land claim, is paying taxes on its 239-acre farm in Aurora and has not applied to put that land into trust.

Both counties and the state have until today to file opposition statements to the New York

Cayugas' trust application with the BIA. A public hearing is 6:30 p.m. March 1 at the New York Chiropractic College in Seneca Falls.

Scott Kepp can be reached by e-mail at skapp@poststandard.com or at 253-7316.

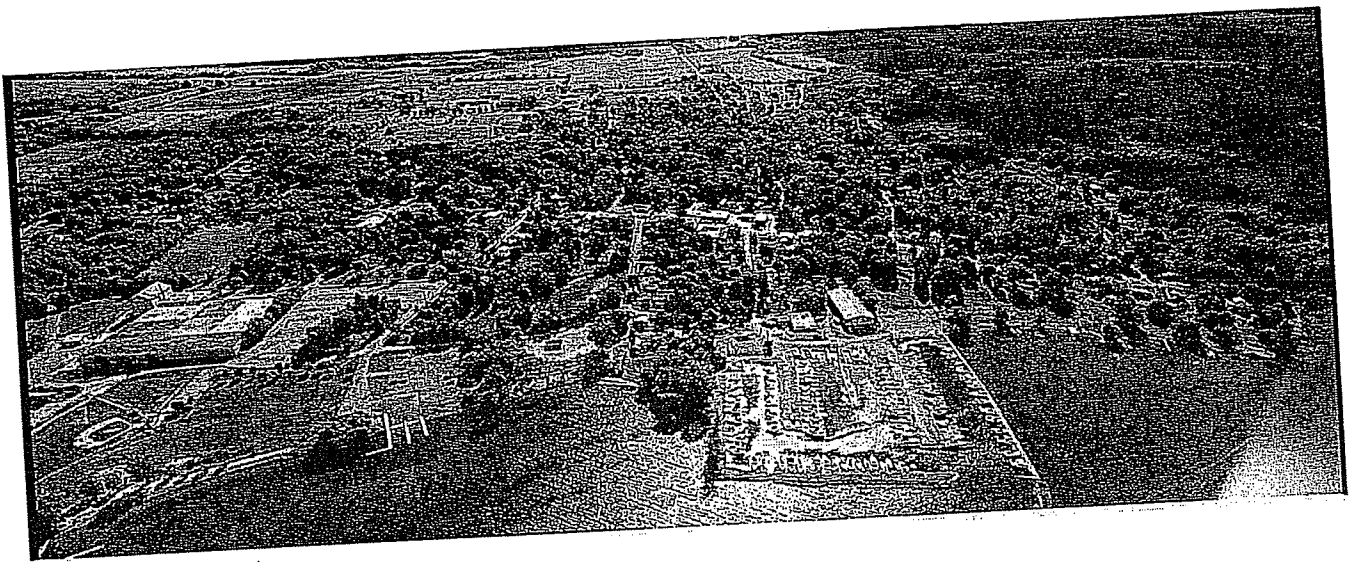
Land trust update

What happened: On Thursday, the Cayuga Indian Nation of New York paid \$178,313.02 in delinquent and current tax bills to Cayuga (\$140,798.19) and Seneca (\$37,514.92) counties.

The motive: By bringing its taxes up-to-date, the tribe now qualifies to have the federal Bureau of Indian Affairs consider placing its properties into tax-free, federal trust status.

EXHIBIT - J

VILLAGE OF UNION SPRINGS
COMPREHENSIVE PLAN



ADOPTED
FEBRUARY 20, 2007

Acknowledgements

This Plan was developed by the Village of Union Springs Planning Board under the guidance of the Village of Union Springs Board of Trustees and with the assistance of Amy D'Angelo from the Cayuga County Department of Planning and Economic Development.

Except where noted, the maps in this Plan were created by Nick Colas, GIS Analyst for Cayuga County Department of Planning and Economic Development.

Members of the Village of Union Springs Board of Trustees

Mayor, Edward Trufant
Deputy Mayor, James Vreeland
Trustee, Dawn Locastro
Trustee, Johan Lehtonen
Trustee, Thomas Parsnick

Members of the Village of Union Springs Planning Board

Chair, Kim Willis
Sidney Wolff
Timothy Dodman
Brian Eggleston
Pat Kimber

Former Village Trustees and Planning Board Members Involved in this Project

Dean Tanner
Trish Ottley Riter
Mary Heath

Thanks to the Village of Union Springs Clerk, Melinda Kostreva, for all her assistance during meetings and with distribution of the documents.

The cover photo as well as the two images located in section 1.4 were provided by Bill Hecht through www.springport.com/~springport/stuff.html.

Village of Union Springs Comprehensive Plan

This Plan represents the first village-wide comprehensive plan since 1982 and will play a critical role in directing the future development of the Village. The Plan includes recommendations to enhance the Village business district, improve the visual appearance of the Village, promote tourism, improve recreational opportunities, reinforce the Village's traditional land use pattern, promote activities for the youth, and better connect the Village to the Lake.

PURPOSE AND INTENT

Comprehensive planning activities play a critical role in directing the future development of a community. The comprehensive planning function is an organized manner by which a community can identify its needs and establish its goals and objectives for future development and preservation. Development and implementation of a comprehensive plan is an effective and efficient means to achieve meaningful and desired change in a steady, incremental manner and to identify those resources the community wishes to preserve and enhance. Furthermore, the comprehensive plan serves to identify changes or trends that are desirable or undesirable in the community. Another reason for preparing a comprehensive plan is to obtain public input, which will be used to guide future government actions. The comprehensive plan also provides an important legal foundation for many of the community's land development laws and regulations, including zoning. In addition, preparation of a comprehensive plan will help the community to qualify for state and federal grant monies to implement the project and policy recommendations that are in the plan.

GOALS OF THE PLAN

The goals of the Union Springs Comprehensive Plan (Plan) were generated from a survey conducted in the Fall of 2001. In keeping with the results of the survey, this plan will promote: 1) change, but only on a small scale, 2) population growth, but again only on a small scale, and 3) small to major growth in businesses, especially those that are tourism and service related. However, change and growth should promote small town charm and quaintness, preserve where feasible the Village's historical and architectural uniqueness, and not endanger the health and beauty of Cayuga Lake and its environs. This plan should assist the Village in becoming an integral part of regional initiatives including promotion and protection of the Cayuga Lake Scenic Byway and Route 90 Scenic Byway.

In order to achieve these goals and meet the survey requests, changes should be made to the Zoning Law in order to promote village commerce on the north end along NYS Route 90 and in current commercial areas. This commerce should not hinder the quaint attractiveness of the Village of Union Springs (Village). Subdivision plat approval, site plan review and special use permits should be reviewed in order to accommodate single-family homes, townhouses and condos. The Village Planning Board should be authorized to act as an architectural and

of our natural attractions (i.e.; ponds, lakefront, open areas, etc.)

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Chapter 1 – Overview

1.1 INTRODUCTION

Union Springs is in some ways an exemplary village in that its growth has been controlled and constrained by the factors which first made the area a good choice for a nineteenth century settlement. The Indians and the earliest settlers recognized that the location provided a steady and plentiful food supply. The soil was rich, the climate relatively temperate, game abounded in the surrounding woodlands, and the lake provided a plentiful supply of fish. From that standpoint this whole area was desirable. But at the beginning of the 19th century the settlers were not only farming, they were looking for power to run their developing machines more efficiently, and transportation to ship their goods to market. They wanted raw materials that they could exploit and they needed land to farm and wildlife habitat from which to harvest animal products.

Probably the climate and the soil were the first consideration among settlers. The twin springs were extremely important to the choice of this site for the Village. The North Pond does not freeze, and thus waterpower is available (and in great amounts) all year round. The lake provides at least 8 months of transportation north and south, and the hills to the east of the lakeshore provide some tempering of the coldest winter months. The Village quickly spread between Carr's Cove and Howland Point in the natural harbor that helped protect shipping. Further, there were great quantities of valuable natural raw materials such as limestone, gypsum, and salt readily available.

Union Springs had all the elements that the settlers needed for survival. Interestingly, these features are still present and visible. The community should make every effort to preserve and protect these elements of the Village.

1.2 LOCATION AND REGIONAL SETTING

The Village of Union Springs is situated in Central New York State, on the east shore of Cayuga Lake. Union Springs is located within Cayuga County, which has a population of 81,963 people. The City of Auburn (population 28,574) is located approximately 10 miles east of the Village and can be accessed from Union Springs via State Route 326. The nearest large cities are Syracuse, Geneva, and Ithaca, which are all located less than 40 miles from the Village of Union Springs. Rochester is also a major city that is within the Central NY region, even though it is over 60 miles from the Village. Figure 1 illustrates Union Springs' location in Cayuga County and the Central New York region.

As the Town of Springport's (Town) urban center, Union Springs provides a concentration of businesses and services that serve both Town and Village residents, including a post office, library, schools, supermarket, waterfront park and cultural center



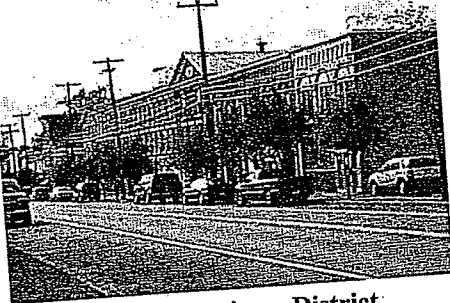
Figure 1: Location Map

1.3 REGIONAL IMPORTANCE OF THE VILLAGE

There are a number of regional plans in which the Village of Union Springs plays a role. These plans are listed here in order to provide a regional context of the importance of the Village of Union Springs. Below is a short overview of each regional plan and the role that Union Springs plays.

1.3.1 Canal Corridor Plans

There are a number of Canal Corridor Plans that refer to the Village of Union Springs. This is primarily a result of a report titled "Development of Tourism and Economic Potential on New York's Canals" that was published in February 1989 by the Barge Canal Planning and Development Board. This report outlined the potential of the canals in New York State (State) to provide both tourism and economic benefits for the state and local communities. As a result of this study, in 1991 the state's voters approved the charging of users fees for the canal system and investment in water related activities. In an effort to better define the roles of the state, regional and local planning agencies, regional studies were conducted to determine regional, county and local issues.



Historic Business District
Cayuga St.

Major studies were undertaken on a regional basis to identify the opportunities and limitations affecting development along the length of the canal. Cayuga County was included in three of these regional studies, and the Village of Union Springs is studied in both the Finger Lakes and the Central New York Region's Plans.

1.3.1.1 Finger Lakes Regional Canal Plan (1994)

The Finger Lakes Regional Canal Plan addresses that portion of the canal system within the Seneca River basin, south of the Erie Canal corridor, focusing on Seneca and Cayuga Lakes. Union Springs is located on the Cayuga-Seneca Canal, which ran from Cayuga Lake to the Erie Canal and now runs to the Seneca River/Barge Canal System.

Five goals were identified in this plan and the Village of Union Springs is cited in three of the five goals. Under the first goal of preserving natural resources in the study area, it is recommended that future development and business activity take place in the areas of the region that already have public infrastructure in place to support them, including the Village of Union Springs. Under the third goal of regional and local economic development, it was recommended that funding be provided to attract boaters and lakeshore visitors to the Village of Union Springs. The fourth goal of enhancing water related recreation and other leisure time activities recommended that the Village implement plans to enhance water related recreation opportunities at Frontenac Park.

1.3.1.2 Central New York Canal Plan (1994)

The Central New York Canal Plan studies the portions of the canal system in Cayuga, Madison and Onondaga Counties. This plan gave minimal recommendations for the Village of Union Springs. The suggestions are found in two sections of the plan. The first section, *Inventoring the Resources*, makes the recommendations that the marinas in the Village should be encouraged and supported, and that the views of the lake from Frontenac Park should be preserved. The second section, which focuses on the Cayuga Lake area of the Cayuga-Seneca Corridor, makes the following recommendations: enlarge Frontenac Park and improve and expand boat launch facilities and parking, improve linkages between the waterfront and the commercial district through pedestrian enhancements, and study the feasibility of developing/utilizing Frontenac Island as a recreation/boating resource.

1.3.1.3 Canal Development Opportunities in Cayuga County (1994)

Since recommendations for Cayuga County's portions of the canal system were represented in three different plans, there was a need to combine elements of these three documents into a single resource for the use of Cayuga County officials and local governments within Cayuga County.

Since this plan is a consolidation of the regional plans, the recommendations for Unions Springs are similar to the regional plans, but with more detail. The recommendations include: bolster the marinas within the Village and look for ways to provide pedestrian linkages from the marinas to other portions of the Village, improve pedestrian facilities connecting State Route 90 to the waterfront, expand Frontenac Park and improve the boat launches and parking, encourage commercial development into the central business district and the northern part of the Village and control development through site plan review.

1.3.1.4 New York State Canal Recreation Plan (1995)

The New York State Canal Recreation Plan is a compilation of the regional plans that were developed. The recommendations for the Village of Union Springs in this plan are synonymous with those in the Finger Lakes Regional Canal Study and the Central New York Canal Plan.

1.3.1.5 Canal Corridor Initiatives Grant (1997)

Even though this grant is not a plan per se, it is important to note here since it was instrumental in achieving some of the goals of the canal plans. Through this grant the expansion of Frontenac Park was achieved, along with the upgrading of the boat launches. Due to changes in project scopes of the other grant recipients, the Village was able to acquire some additional monies thorough this program. These monies were used to convert the former railroad station at the park to municipal offices, demolition of the Astoria Hotel and construction of new dockage. These funds were also used for the demolition of the old Village office/DPW (Creamery bldg.) and improvement to the park office, basketball court, boat launch bathrooms and parking lot, gazebo, sidewalks on Chapel & Factory Streets and north of the High School.

1.3.2 Scenic Byway Plans

1.3.2.1 Route 90 Scenic Highway Corridor Plan (1997)

In 1997 an application was sent to the state to petition for the Scenic Byway designation to be applied to State Route 90 that travels from Montezuma in Cayuga County to Homer in Cortland County. The corridor management plan identifies the intrinsic, historic, scenic, natural and recreational assets that lend to the scenic character of the byway. A number of the assets identified are located in Union Springs. Among them are: marinas, the historic village center, the Spring Mills stone mill building, Frontenac Park, Frontenac Island and the Frontenac Museum. It is important to the long-term viability of the Scenic Byway that these assets are protected and enhanced.

1.3.2.2 Cayuga Lake Scenic Byway Corridor Management Plan (2001)

Building upon the designation of State Route 90 as a New York Scenic Byway, the Cayuga Lake Scenic Byway was established in 2001. The Cayuga Lake Scenic Byway encircles Cayuga Lake and overlaps with part of NY State Route 90. The Cayuga Lake Scenic Byway Corridor Management Plan seeks to capitalize upon the unique nature of the Cayuga Lake Scenic Byway to generate sustainable economic growth along the corridor. A number of the assets in the Village are identified; many of them are similar to the State Route 90 Scenic Byway Plan. Among them are: marinas, the historic village center, the Spring Mills stone mill building, Frontenac Park, Frontenac Island and the Frontenac Museum.

It is important to note that both of the Scenic Byway plans call for protection of Frontenac Island to preserve its archeological resources by guarding them from those who would remove artifacts from the site. However, the canal plans call for development of the island as a tourist destination by creating a park and improving boater access.

1.3.2.3 Scenic State Route 90 Waterfront Villages Plan (2003)

This study was conducted for the Villages of Cayuga, Union Springs and Aurora in order to evaluate the needs of the three waterfront villages and to develop a plan for revitalization. This study has many recommendations for all three villages in general, with a number of recommendations specific for the Village of Union Springs. Most of the recommendations in the plan are property specific. The Village will need to work closely with private property owners to accomplish many of these goals. It is recommended that the suggestions made throughout this plan be incorporated into the Village's goals for future development and rehabilitation where appropriate.

1.3.3 Cayuga Lake Watershed Restoration and Protection Plan (2001)

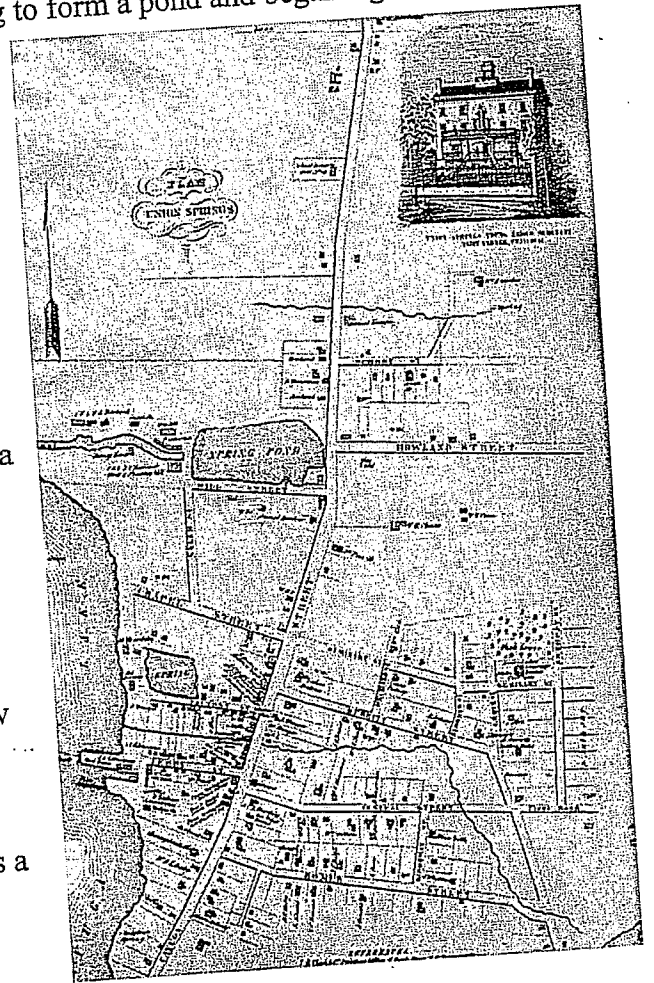
The Cayuga Lake Watershed Restoration and Protection Plan began with the central focus of identifying priority issues and solutions on a watershed-wide basis and to have all the local governments agree to work together to implement the recommendations. There are no specific recommendations made in this plan for Union Springs, however, a number of the suggestions made will help further the improvement of the water quality of Cayuga

1.4 HISTORY OF UNION SPRINGS

The Village of Union Springs is a small, charming community in central Cayuga County located on the east shore of Cayuga Lake, approximately 10 miles south west of the City of Auburn. Its name is derived from the many springs found within the Village boundaries. Early during the nineteenth century, two springs were dammed to form the north and south ponds, providing locations for the community's earliest industries. In addition to the industrial base, the community was a center for farm and lake trade. The Village is historically important as an example of a small town on the periphery of the Erie Canal trade. Its growth and change in the nineteenth century parallel exactly the fortunes of the canal system in upstate New York.

The area of Union Springs was first passed through by Jesuit priests and, in 1770, by the Clinton-Sullivan expedition. Ten years later, the first white settlement and the beginnings of industrialization occurred. Edward Richardson dammed the north spring to form a pond and began a grist mill in 1789. However, he lacked a clear land title and was compelled to leave. It was not until 1800 that the first permanent settlement was established and, in that year, the community's first post office opened. The abundance of local resources, a favorable position on Cayuga Lake and the presence of springs gave impetus to the area's settlement. The extensive minerals, gypsum, and limestone found in Union Springs played an important role in the industrial development of the town. Gypsum along the lake shore to the north first developed a commercial importance during the War of 1812 when Nova Scotia plaster was excluded from this country. The production of the Springport quarries was between twenty and forty thousand tons per year. Limestone quarries were developed north, south and east of the Village. It is said that the south quarry stone was used in the paving of Wall Street in New York City. The development of the canal system in central New York insured the growth of Union Springs.

Trade on Cayuga Lake had started even before the canal network was constructed. Union Springs was a center for the processing of local raw materials. Production of wheat flour, tanned hides, lumber, limestone and gypsum plaster began in the period 1800-1820. The opening of the Erie Canal in 1825, and the Cayuga and Seneca Lakes Canal in 1828, created a vastly enlarged market for these local products. From 1830 to 1870, when canal trade was the greatest, Union Springs grew in size. The



1853 Map of Union Springs

Union Springs was ideally suited for small scale manufacturing

canals to the mills made barge transport simpler. In the last quarter of the nineteenth century, these ponds were lined with a series of grist mills, a bending works, saw mills, woolen mills, warehouses and wharves. Goods, such as flour, were shipped in oak casks made of local lumber. These casks returned with oil for the local trade. Prior to 1872, all transportation had been by water, coach or horseback. Ferry boats, yachts, sailboats and charter boats busily plied Cayuga Lake's waters stopping at the many industries along the lake shore, delivering people to various destinations.

Another historical factor important to the development of Union Springs was the presence of a large number of New England Quakers. The Quakers, organized in 1803-1804, built a meeting house in 1816 and created a cemetery, predating most other religious bodies in their establishment. The Thomas, Howland, Chase, Winegar and Yawger families were all Quakers and important early settlers of the area. The presence of so many members of this denomination was not accidental as the Quakers consciously grouped themselves together and were responsible for most of the early growth of Union Springs. These Quaker families, and others, quickly made fortunes once the canal system was opened. Their houses, which remain today, testify to the wealth of the community. The Howland, Chase and Yawger families for example, were merchants or industrialists whose houses perpetuate their memories.

The early period of Union Springs's growth lasted until about 1880 when the population reached a high of 2,200. Commercial business and industries, including boot and shoe manufacturers, harness and carriage makers, furniture makers, undertakers, barbers, bakeries, jewelry stores, coal and lumber yards, and a nursery thrived. Many doctors and lawyers had established practices. Many of these enterprises were operated by descendents of early settlers, as well as newer settlers. The presence of sulphur springs resulted in Union Springs' reputation as a health resort. Numerous churches, civic and social organizations were also very active. The Quaker's Friends Academy, later known as the Oakwood Seminary, also provided secondary level of education for both young men and women from 1858 to 1920.

In 1872, the advent of the Cayuga Lake Railroad, a branch of the Lehigh Valley Railroad, facilitated travel along the eastern lake shore, reducing both shipping and travel by water leading to a decrease in lake and canal trade. From the 1880 high point into the twentieth century, the Village started to change. Maps of 1875 and 1904 confirm that few buildings were built during that interval. A significant amount of economic activity in the community began to transition from agriculture and industry to one of tourism, which continues to provide a vibrant economic base today.

Train travel eventually underwent a change too as it felt the impact of the automobile with passenger service ending in 1948 and freight service in 1971. Today, it is not uncommon to find residents of Union Springs regularly commuting to jobs in Auburn, Syracuse and Ithaca. As of 2000, the population stood at 1,074. Businesses today provide convenience services and goods to both local residents and the tourists attracted to the beauty and varied resources of Cayuga Lake and the Finger Lakes region.

While many of the charming Victorian and Greek Revival homes and structures remain, one shines in significance as a landmark of Union Springs. The stone mill, built on the north pond in 1836 at a cost of \$1,000, is that it is the only surviving example of one of many

runs of stone. A canal leading to the lake enabled Howland to quickly ship his products with a minimum of expense. The mill has been home to several industries over the years. General Products, Gulf and Western, Wickes Manufacturing, TRW and LPW are just some of the companies to have run operations in this location with employees numbering upwards of 700 at one time. Today, while much of this historically important mill is unused, it still stands as one of the two most recognized and photographed sites in Union Springs.

Frontenac Island, the second landmark, contains less than an acre of land and is one of only two islands of the Finger Lakes. Its history is as a burial ground to the Algonquians, a great tribe which flourished in New York thousands of years ago. No fewer than 300 interments have been discovered on the island. Frontenac Island was deeded to the trustees of Union Springs in March, 1858 by the State of New York, to be kept exclusively as a park and pleasure ground.



Cayuga Lake and Frontenac Island from Union Springs

1920's Picture of Frontenac Island

Current residents and visitors of Union Springs continue to enjoy the beauty of Cayuga Lake with free and widespread access available through the village-owned Frontenac Park. A very strong sense of community spirit is evidenced by the extensive support provided to the many activities of our schools, community organizations and civic groups. The Frontenac Historical Society and Museum offers programs, research in genealogy and maintains an extensive collection of artifacts of local interest.

Union Springs continues to sparkle in its jewel-like setting on the shores of Cayuga Lake, exhibiting charm and ambiance as a village where neighborly people work together to create a caring community.

Compiled from these previous histories:

"Historical and Architectural Significance, Union Springs, NY," a 1979 study completed by Cornell student Mark Reinberger for the NY Division for Historic Preservation as part of an inventory of buildings and structures in Union Springs

"The Bicentennial History of Springport and Union Springs, NY 1976"

"A History of Union Springs from the 1948 Centennial Program Updated to 1998 for the Sesquicentennial" by Margaret Getman and Connie Tallcot.

1.5 CHARACTER OF THE VILLAGE TODAY

... western shores of Cayuga Lake in Cayuga County.

south direction though the Village and serves as its main street where shops, services and rental housing units are concentrated. The Village Hall, post office, churches, bank, library, museum, waterfront park, and local businesses are located within a condensed downtown area defined by Cayuga Street to the east and Cayuga Lake to the west. Connector streets, primarily residential in nature, enable free circulation of pedestrians and motorists between Route 90 and the waterfront. North of the downtown area near the Village boundary, another commercial area exists with a few small businesses. South and west of the downtown area, the Village is primarily residential with some farming of the vacant lands in the northeast.

The negative impact on the local economy from the downsizing and eventual closure of TRW in 1996 has affected the Village in many ways, the most obvious being the closure of many businesses on Cayuga Street. As a result property conditions deteriorated as property owners did not have the funds to keep these buildings maintained. Vacant storefronts sat empty for years. Upper story apartments continued to provide housing but investment in these units came to a standstill. The Village's tax base shrunk with the loss of TRW, and public infrastructure began to deteriorate.

In response to these events, Union Springs struggled to redefine itself. By focusing on its most attractive assets – its natural and historic resources – the Village is transforming itself into a tourism community. Waterfront, architecture, and wildlife are emerging as staples of the local economy. Thousands of visitors come each year to the Village of Union Springs to fish on Cayuga Lake, to launch a boat from the free public boat launch and docks at Frontenac Park, to immerse themselves in the unique architecture and history of the Village, or to witness the magnificent fall and spring migration of thousands of geese, ducks, and songbirds passing through.

In recent years the Village has focused intently on improving and promoting its natural and historic resources. Village trustees worked closely with Cayuga County Department of Planning and Economic Development to secure grant funds through HUD's Canal Corridor Initiative (CCI). Funds were used to make substantial improvements to Frontenac Park and Route 90. At the same time, Cayuga County spearheaded an effort to obtain Scenic Byway designation for NYS Route 90. The Village Board and local Chamber of Commerce participated in this effort and formal designation by the State Legislature was granted in 1998. The County then secured a National Scenic Byways grant for marketing and promotion of Route 90, including the Village of Union Springs. The County also worked closely with the Village and its sister communities, the Villages of Aurora and Cayuga, to secure a NYS Small Cities Technical Assistance grant. The grant was used to develop a Strategic Economic Development Plan for the Waterfront Villages on the Route 90 Scenic Byway, which was completed in 2003.

The cumulative effect of these and other initiatives has begun a rebirth of the Village of Union Springs.

Chapter 2 – Current Conditions

As part of a Comprehensive Planning Process it is important to determine the current conditions of the Village in order to adequately plan for the Village's future. This section details the existing conditions of various components of the Village and its infrastructure.

2.1 ENVIRONMENTAL FEATURES

2.1.1 Introduction

Environmental features are affected by development activities through the loss of critical conservation areas such as wetlands and wildlife habitat. Development can also lead to such adverse effects as the on-site and off-site pollution of environmental resources, including groundwater or soils, or erosion of steep slope/loose soils areas. Typical sources of pollution in the area include runoff from roads and other impervious surfaces containing salts, oils, gasoline, toxic household wastes, and in limited instances, industrial wastes. Environmental resources and features--including topography, soils, water, and native plants and animals--need to be identified so that planning for future growth ensures their protection. Development must be planned in a way that the Village of Union Springs can maintain its water quality, keep soils free from contamination, preserve the important groundwater recharge and flood mitigation functions of wetlands, and continue to provide a habitat for native wildlife.

2.1.2 Geology

Geology encompasses both the bedrock of the region as well as the surface components, composed of soils and glacial deposits. The bedrock in Union Springs is predominantly comprised of limestones, waterlime and gypsum. A stratigraphic map of the geology of the Union Springs area, made by Clark and Luther in 1908, shows the dominant geology to be Onondaga limestone, Manlius limestone, Roundout waterlime and Salina waterlime. The area also has some Marcellus shale in the southeastern portion of the Village and veins of Oriskany sandstone and Cobleskill limestone that travel from northeast to southwest through the Village. (See Figure 2) (The Clark and Luther Map was published in Education Department Bulletin No. 466 by the New York State Museum, March 1, 1910.)

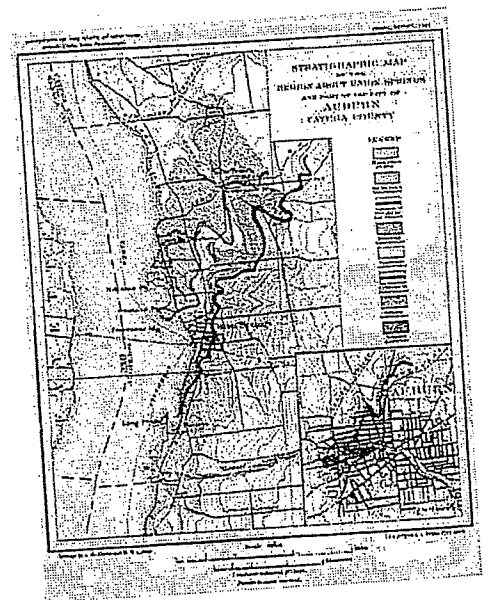


Figure 2: Stratigraphic Map

2.1.3 Topography and Slope

Union Springs is comprised of relatively level land, with slopes typically being less than 15 degrees. However, the land dips more significantly along the gorges running through the Village, and along State Route 90 south of the Village. Along these areas the slopes can be greater than 25 degrees and as a result, there are severe development limitations for steeply sloped lands. Figure 3 shows the sensitive environmental features within the Village, among these features; areas of steep slopes are shown. The data for this map was generated from a variety of sources. The wetland information was taken from both National Wetland Inventory Maps published by the United States Department of Interior and from New York State Freshwater Wetland maps published by New York State Department of Transportation. The areas subject to flooding were determined from maps provided by the National Flood Insurance Program. The topography information, for which the steep slope areas were determined, were obtained from Airborne LIDAR data collected April 2000.

In general the topography of the Village ranges in elevation from 540 feet above sea level to approximately 390 feet above sea level. Figure 4 illustrates the topography of Union Springs, using data from Airborne LIDAR data collected April 2000 and displayed in contours of 10 feet intervals.

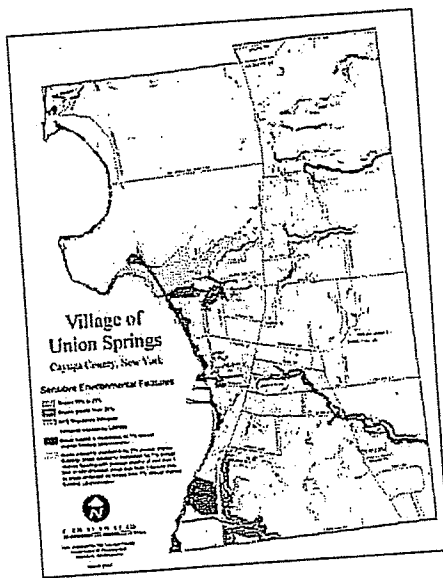


Figure 3: Environmental Features

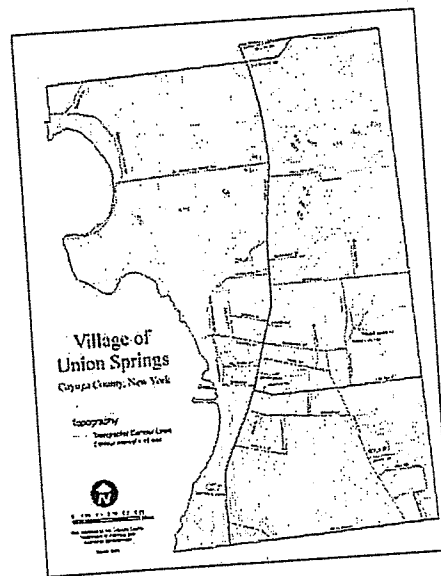


Figure 4: Topography

2.1.4 Soils

The five most common soils in the Village are all silt loams: Schoharie Silt Loam, Cazenovia Silt Loam, Ontario Silt Loam, Ovid Silt Loam, and Odessa Silt Loam. There are also many pockets of other types of soils, most of them being other variations of silt loams with some gravelly silt loam and silty clay loams.

Schoharie, Ovid and Odessa have variable or high water tables, and are not suitable for the construction

of foundations. The Cazenovia Soils and the Ontario soils are well suited to most types of development.

While soils conditions can be a constraint to development, depending on factors such as wetness, frost action, stones, etc., there are also many engineering/construction techniques to overcome these constraints.

2.1.5 Water Resources

2.1.5.1 Groundwater

Groundwater is a moving stream that flows following the contours of the land. Most groundwater originates as rainwater that seeps downward through soils until it reaches the saturation zone from which wells and springs are fed. Groundwater aquifers are porous water-bearing geologic formations capable of yielding an appreciable supply of water. The aquifer in the Village of Union Springs is quite substantial and is the primary drinking water source for the Village. All Village residents and a portion of the Town of Springport are supplied with water from the Union Springs public water district, which is drawn from spring fed wells. The water quality of these underground springs is of significant importance to the Village since it is their sole supply of potable water.

The Cayuga County Groundwater Contamination site consists of a plume of contaminated groundwater from an unknown source. The suspected extent of the plume covers approximately 4.8 square miles and includes the Village of Union Springs. Routine testing of the Village of Union Springs' municipal drinking water supply revealed low levels of cis-1,2-dichloroethene (cis-1,2,DCE) and prompted referral to DEC in 2000. Through EPA's investigations they found that 24 drinking supply wells were contaminated. In 2001, the Village of Union Springs placed an air stripper on their well in order to remove the cis-1,2,DCE from the drinking water. To date this treatment has successfully removed the contaminants to a level below the standards set by the New York State Department of Health.

In order to protect against future public harm, this situation needs to be continually monitored and the air stripper maintained. The Town of Springport has adopted a wellhead protection plan to protect the Union Springs drinking water supply. The Village of Union Springs has reviewed this plan, but has not yet adopted it.

The identified wellhead lies entirely within the Village of Union Springs and large portion of the Village east of Route 90 lies within the proposed protection zone. Given that Springport has adopted a version of this plan, it would benefit the Village to also adopt a protection plan for this vital resource. Figure 5 shows the Wellhead Protection map in the draft plan that is located in

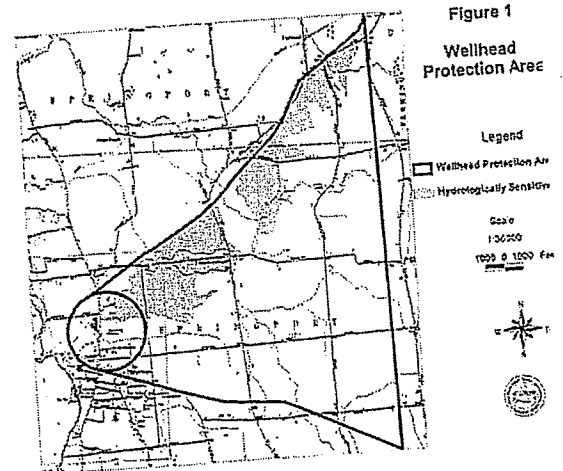


Figure 5: Wellhead Protection Area

Figure 5 shows the Wellhead Protection map in the draft plan that is located in

2.1.5.2 Surface Water

There are a variety of surface water resources encompassed within the Village of Union Springs, including Cayuga Lake, North Pond, South Pond, streams, floodplains, and wetlands.

2.1.5.2.1 Cayuga Lake

Cayuga Lake is longest of the Finger Lakes at 38 miles long. Its average width is 1.7 miles, and it is 3.5 miles wide at its widest point near Aurora. It is approximately 435 feet deep at its deepest point. It has one small island near Union Springs, Frontenac Island, which is one of only two islands in all of the Finger Lakes, the other being Squaw Island in Canandaigua Lake.



Frontenac Island

Cayuga Lake resides in three counties, Cayuga, Tompkins and Seneca, and is surrounded by 13 towns, the City of Ithaca and five villages, the Village of Union Springs being one of these. The lake is considered a great recreational and natural resource providing habitat for many fish and wildlife species as well as recreational opportunities such as fishing and boating.

The lake, even though is not a source of drinking water for the Village of Union Springs, is an important resource for the Village and the basis for most of its tourism industry.

2.1.5.2.2 North Pond

North Pond is located on the west side of State Route 90 north of Green Street. This pond was created in 1789 by the damming of the underground springs that surfaced in this area. The creation of the pond was needed for power generation of the mill. The original mill was abandoned, but subsequent mills were built. The current mill building was constructed in 1835. The mill pond is no longer being used for mill operations and has become a haven for waterfowl. The warmer temperatures of the underground springs that feed it attract birds, including diving ducks, to the open water year round.



North Pond and Stone Mill

2.1.5.2.3 South Pond

South Pond was also formed by the damming of springs and was the site of many different industries over the centuries. South Pond is now part of Frontenac Park and is currently owned by the Village. Similar to North Pond, this pond is also a haven for birds, especially in winter, and is an asset to the

2.1.5.2.4 Streams

There are a few minor tributaries that drain to the eastern side of Cayuga Lake that run through the Village. One of these is the outlet for the North Pond that travels along the north side of Frontenac Park. There has been some interest in the community to open up this corridor and the adjacent wetlands for canoe access and a nature center.

2.1.5.2.5 Floodplains

Most of the shoreline of Cayuga Lake is subject to periodic flooding. There are also three areas, along tributaries, where larger flooding events may cause more widespread flooding. The first of these areas are Frontenac Park, North Pond and Spring Street, the second is near Foundry, Factory and Basin Streets, and the third is in the area of Arnold and Evergreen Streets.

2.1.5.2.6 Wetlands

There are state and federal wetlands within the Village of Union Springs. Wetlands are protected by state and federal laws, which require any person wishing to conduct an activity in a wetland or regulated adjacent area to obtain a permit from the issuing authority. In general, large wetlands, over 12.4 square acres, are governed by the NYSDEC, and all smaller wetlands are federally regulated. There are a number of wetlands in the Village and both North and South Pond are classified as Federal Wetlands. Please see Figure 3 for a map of the wetlands within the Village.

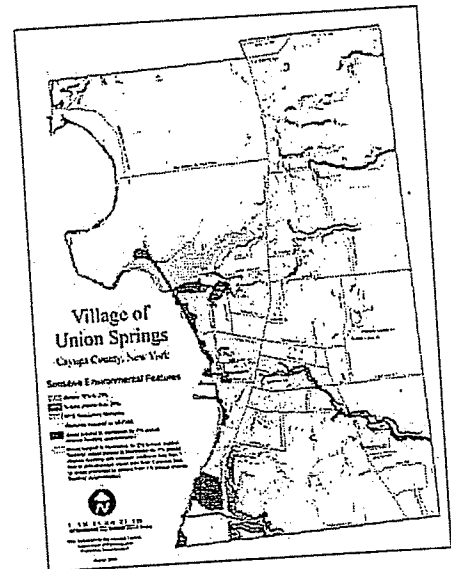


Figure 3: Environmental Features

2.1.6 Threatened or Endangered Species

The response received from NYS Department of Environmental Conservation states:

“The only record we have for Union Springs is an historical record: there are two specimens of handsome sedge (*Carex formosa*) that were collected in 1859 and 1868 in “Union Springs.” The precise locations of the populations from which these specimens were collected are not known. This plant has not been documented in the area since then, and no new information exists as to its current status in the area. This rare plant, listed as Threatened by New York State, occurs where the bedrock is limestone or the soils are calcareous in forests, forest edges, road sides, or less frequently in open meadows. Field surveys of areas within Union Springs, which match the above description, would be very helpful in assessing whether handsome sedge still exists within the Village.

Cayuga Lake is noted as a concentration area for migrating and wintering waterfowl.

2.3 LAND USE

The manner in which property is used is one of the primary concerns in the development of a comprehensive plan. The Village of Union Springs has a concentration of buildings in the center of the community, with areas along the edges available for farming or developable vacant land. However, the Village's traditional downtown area contains many vacant or underutilized buildings. Most of these vacancies are within commercial mixed-use properties.

The Village of Union Springs is primarily a residential Village with some supporting commercial, industrial, and institutional uses located in or near a traditional downtown center. Much of the area's employment is located within the surrounding areas of the City of Auburn, Village of Aurora, Seneca Falls and the City of Ithaca.

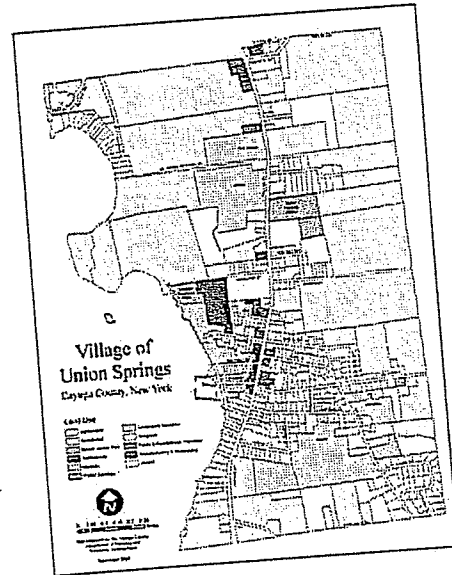


Figure 7: Land Use 2005

2.3.1 Total Acreage

The Village of Union Springs has a total land area of approximately 1,130 acres, or roughly 1.77 square miles. The Village comprises roughly nine percent of the Town of Springport's total land area. The vast majority of the acreage is developed land, which is defined as land developed for residential, commercial, industrial, or institutional uses (see Figure 7). Approximately 41 percent of the area, or about 440 acres, is estimated to be in residential use (see Table 4). Commercial areas cover about 33 acres or 3 percent of the total acreage. Industrial uses make up about 1 percent of the Village's land area. Community service uses--such as schools, churches, and government facilities--make up about 11 percent of the total acreage. This number should be higher; however the lands that are owned by the Seventh Day Adventist Academy are classified as agricultural instead of religious. Parks and open space areas occupy an estimated 14 acres. An estimated 454 acres or 42 percent of the land area is developable land with 325 acres being currently used for agriculture. The amount of vacant land in the Village of Union Springs is estimated at roughly 129 acres.

(Note: The information for Figure 7 was provided by Cayuga County Real Property Service's land classification for assessment purposes. Assessment land classification use a number of classifications for each parcel, however, only the first classification listed for each parcel was used to create this map. The intention of this map is to show current general land use patterns. For more detailed information on land use, please see the assessment records available at either the Village of Union Springs office, or the Cayuga County Real Property Service's office.)

Table 4 Land Use in the Village of Union Springs, 2005

Type	Acres	% of Total Acreage
Agriculture	324.61	30.28
Commercial	33.17	3.09
Community Service/Public Services/Religious	120.80	11.27
Industrial	11.04	1.03
Parks and Recreation	13.67	1.27
Residential	439.51	40.99
Vacant Land	129.37	12.07
Total Acreage**	1072.17	100.0%

Note: *All areas estimated based on available data from Cayuga County Real Property Services. Roads are not included in any of these categories, thus the total acreage does not equal 1,130 acres.

Source: Cayuga County Department of Planning and Economic Development, GIS data, 2005.

2.3.2 Land Use Types

2.3.2.1 RESIDENTIAL

Residential dwellings are the most prevalent land use in the Village. According to 2000 U.S. Census data, there were 486 housing units in the Village. Residential development in the areas further away from commercial areas is generally of a lower density than downtown neighborhoods.

2.3.2.1.1 Housing Characteristics

There were 486 housing units in Union Springs in 2000. Of this total, 429 (88.3 percent) were occupied. This consisted of 311 owner-occupied units (72.5 percent of the occupied housing stock) and 118 (27.5 percent) renter-occupied. Overall, 361 or 75 percent of the total units were single-unit structures, 25 units were in two-unit structures, 25 were in structures that include three or four units, 37 units were in structures with between five and nine units, 3 were in structures with between ten to nineteen units, and 2 were in structures with twenty or more units. Union Springs experienced an increase of 13.3 percent increase in housing units between 1990 and 2000, adding 57 units for a total of 486 units.

With Union Springs being a lakeside community, a number of its vacant buildings are seasonal. In 2000, Union Springs's vacancy rate was to 11.7 percent of the total housing stock, 40 percent of the vacant housing is seasonal. The Village's vacancy rate still compares favorably with the Town of Springport and Cayuga County, which had vacancy rates of 25.2 percent (75 percent of Springport vacant units were seasonal use units) and 13.9 percent, respectively. In addition, 88.3 percent of Union Springs's housing stock was owner-occupied, which is higher than both Springport (77.5 percent).

Union Springs has an older housing stock with 51.1 percent of structures being built prior to 1940. From 1940 to 1960 14.6 percent of the structures were built, between 1960 and 1980 12.9 percent of structures were built, and between 1980 and 2000 21.4 percent of structures were built. Housing units built between 1980 and 2000, for Springport and Cayuga County were 30.5 percent and 20.4 percent, respectively. According to the 1990 Census, 51.1 percent of Union Springs's housing stock was built before 1939, which is higher than the proportions in Springport (36 percent) and the County (45). Most of the recently built houses have been constructed in the southeast section of the Village, predominantly in the area of Oak Drive.

Though the housing value in Union Springs was comparable to Cayuga County's in 2000, it was low relative to the Town of Springport. The median value for an owner-occupied house in Union Springs was \$75,100, slightly lower than the County average (\$75,300) and nearly eight thousand lower than Springport (\$83,000). In addition, the median gross rent in Union Springs was \$442, lower than the \$504 in Springport and \$482 in Cayuga County.

2.3.2.1.2 Condition of Housing

The housing stock in Union Springs is generally in good condition, particularly in the portion of the Village east of Scenic State Route 90. There are some maintenance concerns in the Village, primarily west of Scenic Route 90, which mainly reflect the older housing stock in that area, relative to the eastern section of Union Springs. Specifically, there are problems along Basin Street, Factory Street and the west side of Scenic Route 90 (Cayuga Street). While most problems are related to property maintenance, there have also been incidents of fire code violations.

2.3.2.1.3 Affordable Housing Program

An important goal of the Comprehensive Plan is to continue to provide diverse housing opportunities in Union Springs. The ability of young families and working-class people to live in the Village is needed for the diverse labor pool required to sustain economic growth in the region. Also, the ability of elderly residents to remain in the community is a concern. Of particular importance to the Village, due to its relatively old housing stock, is the maintenance of its homes.

The Governor's Office of Small Cities has funds available for housing rehabilitation through the administration of federal Community Development Block Grant (CDBG) funds. CDBG funds may be used to meet community development and housing needs principally for low- and moderate-income persons and/or for the prevention or elimination of slums and blight.

In September 2004, the Village of Union Springs received a grant from the Governor's Office of Small Cities. This home rehabilitation project provided funds for two programs: owner-occupied home rehabilitation and rental housing rehabilitation. These funds enabled the rehabilitation of 17 housing units located in 10 different structures. These structures were located along Cayuga Street, Basin Street and Factory Street. Even though the direct benefit of these programs is for the property owner, these improvements will also improve the aesthetic appearance of the Village, which in turn may improve economic development in the Village.

2.3.2.2 COMMERCIAL

Commercial uses are focused in two areas, in the downtown central business district along State Route 90 and on the north edge of the Village near the intersection of State Route 90 and State Route 326. Other neighborhood commercial uses are located throughout the residential areas in the Village.

2.3.2.2.1 Historic Central Business District

The historic central business district is the foundation for Union Springs's economy, providing many jobs for the community and affordable space for businesses to locate and grow. A revitalized business district would increase the property values throughout the community (the Village and Town) and encourage more growth in and around the Village. In addition, it would increase the amount of goods and services available to residents and, potentially, could attract tourists who would be drawn to Union Springs's traditional village setting and unique sense of place.

2.3.2.2.2 Competing Retail Areas

In general, Village of Union Springs residents shop at several locations that are outside of the Village and are accessible by automobile, including:

City Of Auburn

Retail developments on Routes 5&20 as well as Genesee Street are easily accessible to Village residents. Even though the Village has a Big M, the City of Auburn is able to provide larger shopping centers such as P&C Markets, Tops Markets, Wegmans, as well as Walmart, BJ's Wholesale Club and Lowes.

Finger Lakes Mall

Approximately 10 minutes away from the Village, the Finger Lakes Mall (located on Routes 5&20 in Aurelius) is the closest enclosed shopping mall to the Village. With over 50 stores, the Finger Lakes Mall is anchored by Sears, JC Penney's, and Bass Pro Shops.

Finger Lakes Crossing

Located across from the Finger Lakes Mall, on Routes 5&20 in Aurelius, this shopping plaza is still mostly under construction. To date the construction of a Home Depot has been completed and construction of a Kohls store as well as restaurants is currently on-going.

Prime Outlets in Waterloo

Located on State Route 318 between exits 41 and 42 on the NYS Thruway, Prime Outlets has approximately 50 outlet stores including The Gap, Eddie Bauer and Bass. This outlet mall is located approximately 25 minutes from the Village of Union Springs.

2.3.2.3 COMMUNITY FACILITIES

Nestled among the single-family residential and commercial sections are pockets of institutional uses such as schools, government facilities, and churches. Many of the governmental uses are located on or near the lakeshore including the Village offices, highway garage and sewer treatment plant. The expansive Seventh Day Adventists' properties are found in the eastern portion of the Village. Frontenac Park is a valuable resource for the Village with over 26 acres running along the shore of Cayuga Lake and includes ball fields, playground, swimming beach, two pavilions, a gazebo and a free boat launch. Churches within the Village are primarily located on State Route 90.

2.3.2.4 INDUSTRIAL AND VACANT

Industrial and vacant lands are primarily located west of State Route 90, north of the business district. Vacant parcels are scattered throughout the Village with the largest vacant parcels in the north portion of the Village.

Industrial activity historically has been located by the North and South Ponds and adjacent to the lake as access to water was a key ingredient to a successful industrial business. However, since the closing of TRW in the mid-1990's, there hasn't been another larger industrial employer within the Village. With current trends moving more towards large commercial operations rather than industrial, it is unlikely that the Village will see a large industrial business within its borders in the future.

2.3.2.5 AGRICULTURAL

Even though the Village does not contain any lands within a NYS Certified Agricultural District, and the Village does not have an exclusive Agricultural Zoning District, there is still land within the Village that is actively being farmed. The majority of this land is located in the northern portion of the village, with a few parcels to the south. These large parcels are primarily being used for crop farming.

Most of the land classified as agricultural within the Village is owned by the Seventh Day Adventists. This land is primarily used for crop production. Not all this land appears to be in continual production, but some part of it appears to be farmed each year.

2.3.3. Current Land Use Regulations

2.3.3.1. Zoning

The Village of Union Springs's current zoning law was adopted in 1987. The zoning law has been updated periodically since that time. The purposes of

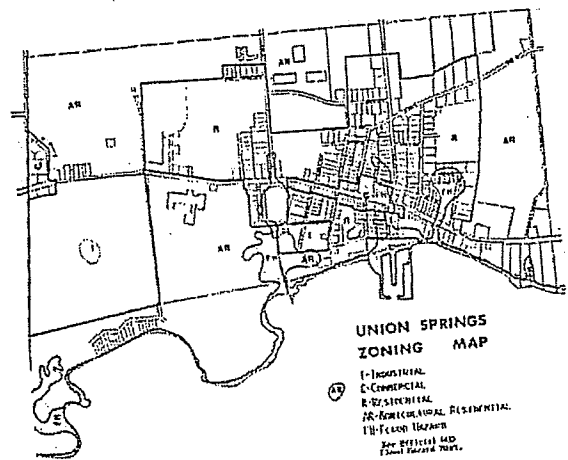


Figure 8: Current Village Zoning Map

general welfare of the community by regulating and restricting dimensions and uses in accordance with §7-700 of New York State Village Law.

Zoning regulates the uses allowed in the various districts, as well as the intensity and dimensional requirements of those uses. Current zoning provides for the development of the Village as a predominantly residential community with supporting commercial and industrial facilities. The 1987 Zoning Law lists five zoning districts, Agricultural Residential, Residential, Commercial, Industrial, and Flood Hazard (see Figure 8 and Table 5).

Table 5 Summary of Current Zoning Designations for the Village of Union Springs, New York

District	Title/General Use	Minimum Lot Size(Square Feet)	Minimum Lot Width (Feet)
AR	Agricultural Residential	0.5 acres	100
R	Residential	12,000	100
C	Commercial	5,000	50
I	Industrial	20,000	100
FH	Flood Hazard	N/A	N/A

Source: Village of Union Springs, Zoning Ordinance (Rev. 10/1987)

2.3.3.1.1 Special Permits

Special permits are a component of the zoning law and are recommended when special characteristics (e.g., smoke, dust, noise, heavy truck traffic, negative visual characteristics) related to the operation or installation of the use may create adverse environmental impacts that could affect the use of nearby properties. In addition, uses governed by special permit may include uses that are not as consistent with Union Springs Comprehensive Plan as those uses permitted by right in the zoning law. The special permit conditions are designed to mitigate potential adverse impacts. As its name implies, a use permitted by special permit is a use that is expressly permitted by the zoning law. If the property owner meets the special permit conditions, the Zoning Board of Appeals is obligated to approve the special permit application.

Recommended uses to be governed by special permit include: gas stations and repair shops; auto dealers and other vehicle-related businesses; drive-through facilities; home occupations; multi-family housing; nursing homes and continuing care retirement communities; industrial uses; and indoor recreational facilities.

2.3.3.2. Other Land Use Regulations

2.3.3.2.1 Subdivision Regulations

The Village Board adopted the Village of Union Springs Subdivision Regulations in 1987. The law requires the Village Planning Board to review and approve or disapprove proposed subdivisions in three stages: preliminary, and final plat

review. The subdivision law also stipulates required improvements and requires the preservation of natural features to the extent practicable.

2.3.3.2.2 Site Plan Review

In 1992, the Village Board initially adopted the Site Plan Review Law. This law authorizes the Village Planning Board to review, approve or disapprove site plans for land uses within the Village. Most new land use activities affecting the exterior of buildings must go through site plan review. Exceptions include one or two family dwellings and related accessory uses or a general farm use.

2.3.4 Incompatible Land Uses

Even though land uses throughout the Village generally conform to the Village's zoning law, there are a number of areas where adjoining land uses are incompatible.

The most notable incompatibilities with surrounding uses are the presence of the Village's Department of Public Works, which includes the Sewage Treatment Plant and Highway Garage, and the General Products Industrial Complex adjacent to Frontenac Park. The incompatibility of the General Products Industrial Complex is related to the historic need to be near water in order to have a successful industrial operation. The location of the Village owned facilities to the area adjacent to Frontenac Park was primarily due to the Village owning the land at the time that the project was proposed and for the Water Treatment Plant, this was the lowest location available allowing the Village to use gravity to assist in the collection of wastewater.

2.3.5 Non-Conforming Uses

Comparison of zoning and actual land use patterns in the Village reveal the existence of uses located in zoning districts in which they are not permitted. Many non-conforming uses were established prior to the adoption of the Village's first zoning law; and are permitted to remain, though restricted from being enlarged.

2.4 GOVERNMENT FACILITIES

The Village Office is located in the old railroad station in Frontenac Park. The Village's Department of Public Works, which includes the Sewage Treatment Plant and Highway Garage, are located north of Frontenac Park. If it were technically and financially feasible, it would be preferred to move these uses off of the lakeshore and open the area to more compatible uses, but at this time the facilities are relatively new and working within operational standards.

2.4.1 Service Consolidation

The Village currently shares a number of services with the Town of Springport. Among these are their Assessor and Town Court. The Village also uses the gasoline and diesel from the Town and reimburses the Town for the cost. The Village and Town highway departments work closely together. These two municipalities also work together to

provide water and sewer to Town residents along the lakeshore and along State Route 90. The Village and Town also work together to provide recreational programs for residents.

2.5 TRANSPORTATION

Union Springs has relatively good accessibility with the asset of Scenic State Route 90, a major thoroughfare, running through the Village. The Village also has the intersection on State Route 326 and State Route 90 within the Village limits. The nearest exit of the New York State Thruway (I-90) from the east is Exit 40 located in Weedsport, NY (approximately 21 miles) and the nearest exit from the west is Exit 41 located in Waterloo, NY (approximately 20.5 miles) from the Village. Scenic State Route 90 also intersects State Routes 5 & 20 approximately 10 miles north of the Village.

The Village of Union Springs is located directly on the shore of Cayuga Lake. There are many roads that connect Scenic State Route 90 with the lake, with the most used being Chapel St. At the end of Chapel St. is Frontenac Park which provides for public lake access, boat launches, and a large municipal parking lot. There are sidewalks going from Scenic State Route 90 to the park, encouraging pedestrian traffic to the lake.

There are two state roads within the Village and one county road. The Village maintains all the remaining roads. The primary road in the Village is Scenic State Route 90 that runs north-south through the length of the Village. The second is State Route 326, which travels along the northern border of the Village. There is only one county road in the Village. Center Street travels from State Route 90 east to Truesdale Road in Springport. There are just over 6.44 miles of roadway in the Village of Union Springs that are Village roads and are the Village's responsibility for maintenance. (See Figure 9 above for highways.)

2.5.1 Traffic Volumes for State Roads

In general, traffic levels in the Village are not high. Union Springs's residential streets are lightly traveled and its connector routes are rarely congested. The road within the Village that is most heavily used is Scenic State Route 90, which a traffic study in 1998 showed that the section of the road traveling through the Village has Average Annual Daily Traffic (AADT) of 2404. The other state road within the Village bounds is State Route 326. Based on a study on 2003, this route has an AADT of 3097.

Even though the traffic counts do not show a high usage overall, there is high truck usage of State Route 90. These trucks are primarily coming from downstate and use State Route 90 as a cut over State Routes 5 & 20 and the New York State Thruway.

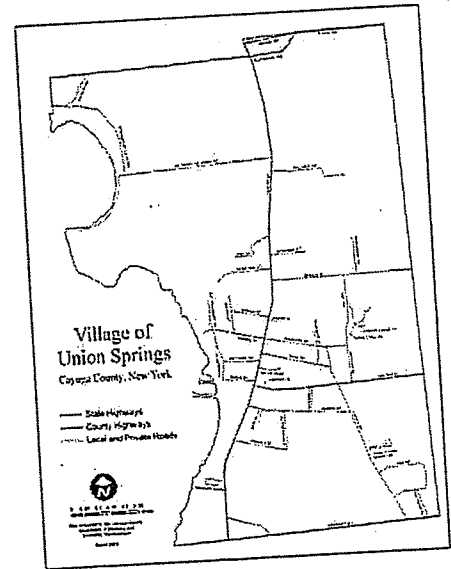


Figure 9: Highway Map

2.5.2 Sidewalks

There are many areas in the Village that lack sidewalks, particularly the streets in the newer subdivisions and developments, which are generally situated on the outskirts of the main residential area in the center of the Village. In addition, some streets are missing sections of sidewalks, only have sidewalks on one side of the street, or the sidewalks are in disrepair.

2.5.3 Parking

Public parking opportunities in the Village business district include parallel on-street parking spaces along Scenic Route 90 and parking in the municipal lot in Frontenac Park. A parking lot is under development on Scenic State Route 90 in the location of the former Astoria Hotel. This parking lot, when completed, should have approximately 30-35 parking spaces and an inviting appeal with landscaping and possibly a mural on the adjacent building. Outside the business district there is parking along the sides of the streets.

2.5.4 Rail

Union Springs was once an important rail destination. However, since the railroad going through the Village was abandoned, the closest rail is to the north of the Village near the Springport-Aurelius border. Most of the abandoned rail lines are either in Village ownership or are privately owned. The former railroad station has been converted to a municipal building for Village offices.

2.6 INFRASTRUCTURE

2.6.1 Water

Union Springs' water supply is located on Route 90 in Union Springs across from the Union Springs High School. There are two drilled wells with a very good supply of water and two well houses, labeled North Well House and South Well House. All signals are sent from the water tanks to the pump house through the telephone lines.

The Village uses 30 HP Goulds submersible pumps. In each pumping cycle, the Village alternates its wells and pumps. Chlorination takes place at the South Well House for both wells. There is a pit at the South Well House where the two lines come together, and the chlorine injection is done. Chlorine is checked once each day. The system is equipped with an alarm system. If there is any failure in the system, the alarm will dial out until someone answers the call. There is approximately eight miles of water mains in the Village.

There are seven pressure-reducing pits in the Village, 445 metered water customers, and two water storage tanks. The Center Street water tank has a 200,000-gallon capacity, and the Grove Street water tank has a 189,000 gallon capacity. Each tank has a control pit for the signal equipment. The public water system was recently expanded to support Water District #1 in the Town of Springport. Overall, this is an investment of \$3,500,000 in the water system.

Water District #2 that is located in the Town of Springport and is currently under construction will be supplied water from the City of Auburn.

2.6.2 Sanitary Sewer

The sanitary sewer system currently services the Village of Union Springs, Hibiscus Harbor and portions of Springport that are adjacent to the Village. The sanitary sewer system has the ability to expand by 120 more units before upgrades will need to be made to the system. The amount of new development, either residential or commercial that this can support is dependent on the demands of the development. For instance, most single-family homes require one sewer unit, but a Laundromat could require seven to eight units. The sanitary sewer system is in the process of undergoing approximately 4000' of sewer line repairs at the north and south ends of the Village primarily along State Route 90. The longevity of the current system will depend on both the speed and type of new development within the Village.

2.6.3 Electricity

NYSEG is the primary provider of electricity for residences, businesses and others in the Village; however, other providers are available.

2.6.4 Natural Gas

There are a large number of natural gas wells in this area of Cayuga County. The Union Springs High School has its own natural gas well that is uses for its building. Natural gas for residences and business is generally provided by NYSEG, unless the home or business has its own well.

2.6.5 Telephone

Primary telephone service within the Village of Union Springs is provided by Verizon, although other providers are available.

2.6.6 Internet

Time-Warner offers high speed internet access to both residences and businesses. This service is available in all areas where Time-Warner's cable television service is offered, which encompasses the entire village, including the business district. DSL, wireless and dial-up service is also available throughout the Village.

2.6.7 Television

Cable television service for the Village of Union Springs is provided by Time-Warner Cable. There are also a number of satellite dish providers for the Union Springs area.

2.7 COMMUNITY FACILITIES

Figure 10 shows the Publicly Owned Lands, which include Community Facilities. This information was gathered from property ownership information provided by the Cayuga County Office of Real Property Services:

2.7.1 Union Springs Central School District

The Village of Union Springs is part of the Union Springs Central School District, whose district is composed of four schools. Cayuga Elementary is located in the Village of Cayuga, to the north of Union Springs and services grades K-3. AJ Smith Elementary School is located within the Village of Union Springs on Homer Street and enrolls children for grades 4-6. The Middle School (grades 7-9) and the High School (grades 10-12), and the District Offices are located within the Village of Union Springs on State Route 90 (Cayuga Street) in the north end of the Village. In addition to the Village of Union Springs, the Unions Springs School District also services the Village of Cayuga, Town of Springport and portions of the Towns of Aurelius, Fleming, Ledyard and Scipio.

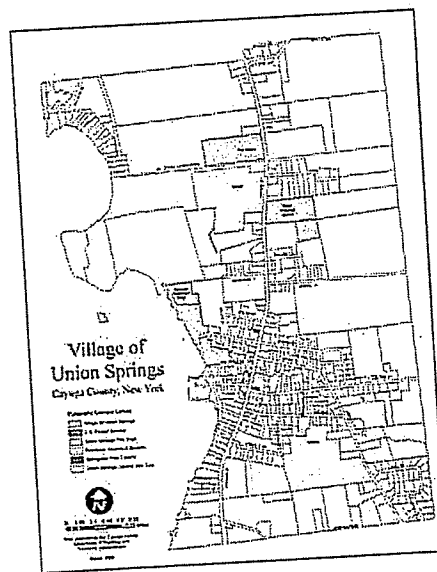


Figure 10: Community Facilities

2.7.1.1 Enrollment

The district enrollment in the 2004-2005 school year for kindergarten through 3rd grade was 263 pupils, and for 4th through 6th grades was 216 pupils and for 7th through 12th grade was 557, totaling 1036 students.

Enrollment projections and school capacity information was unavailable at the time of the adoption of this plan.

2.7.2 Fire and Emergency Services

The Union Hose and Engine Company, more commonly known as the Union Springs Volunteer Fire Company, protects the Village of Union Springs and assists with protecting the surrounding 28 square miles, which includes the Town of Springport. The fire department protects approximately 3500 people in the off-season and over 4,000 residents in the summer.

The department has approximately 43 active volunteers and is part of a regional 911-dispatch system, which serves Cayuga County. The department's services include fire, ambulance services, emergency medical service (EMS), HAZMAT, search and rescue, and extrication. The station is located on the north end of the Village of Union Springs on State Route 90.

The majority of the calls received is for the ambulance service and are medical related. The fire department participates with Rural Metro to assist with ambulance service for those fire departments that don't have those services.

2.7.3 Police Protection

Union Springs does not currently have its own police department and relies on Cayuga County Sheriff and New York State Police.

2.7.4 Library Facilities

The Springport Free Library is located on State Route 90 just north of the commercial center. In addition to the village of Union Springs, the library also services the village of Cayuga, the Towns of Springport, Aurelius, Fleming and portions of Ledyard and Sennett. The library is a charter member of the Finger Lakes Library System. In order to provide more extensive and efficient information services, the library participated in forming CayugaConnect. CayugaConnect is a consortium of eight Cayuga county libraries. Your one library card can be used at all the eight CayugaConnect libraries. This same library card is your electronic passport to PowerPAC. The PowerPAC is an on-line public access catalog. With your library card you can access inter-library loan and twelve electronic databases. The electronic databases are powerful and diverse sources of information for students, teachers, business owners, or any member of the public seeking reference resources.

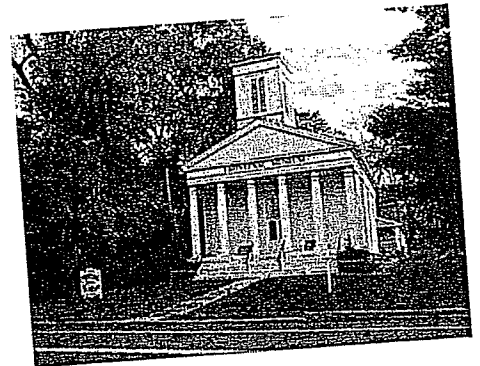
In addition to traditional library services, members of the community can access public computers, the local newspaper, and a variety of public programs. The library offers a five week children's summer reading program, and supports the school district's homework assignments and summer reading assignments. The library also offers access to Mail-It books for the home bound, and books on CD and tape for the visually impaired.

2.7.5 Solid Waste

The Village has a contract with Appleton Disposal for curbside pick-up of solid waste and recyclables within the Village.

2.7.6 Community Centers

The Frontenac Museum is currently considering a community meeting center in the basement that would allow for social and cultural gatherings and the local churches allow groups to use their facilities for community meetings. There are currently no indoor recreational facilities that are open to the community, although the recreational facilities at the school may be available upon consent of the school.



... community room

in

historical significance for the village, they are working closely with the New York State Historic Preservation Office, or (SHPO). With SHPO approval the front of the library was equipped with a handicapped accessible lift. SHPO has also approved the addition of a handicapped accessible bathroom. Building of the bathroom will commence in the spring of 2007. The library board is in the process of considering the proposal of an architectural firm to turn the basement into a combination community meeting room and public computer access site. Three agencies are involved in final approval of library building plans, The Village of Union Springs, SHPO and the State Department of Library Development. The approval of all these agencies is necessary for matching funds grants the library uses for all of its major building plans. We plan for the future in a measured and paced manner. This allows us to maintain our historical presence and maximize our use of public tax dollars.

2.7.7 Churches

There are currently three active churches with in the Village including St. Michaels Catholic Church, Trinity United Church of Christ (UCC), and the Former Methodist Church as well as the Seventh Day Adventist properties.

2.8 PARKS AND RECREATION

Frontenac Park is a valuable resource for the Village with over 26 acres running along the shore of Cayuga Lake. The Jorgenson Pavilion is at the north end of the park, and can be used by the public for parties, picnics and meetings. Just north of the Village Hall there is the sandy beach area for swimming and relaxing, with a bathhouse and bathroom. Lifeguards begin their work the weekend of high school graduation and continue until Labor Day. The swim area is open daily. The guards teach swimming lessons with certification for waterfront safety instruction. There is a sand volleyball court, soccer field, softball/baseball field (with dugouts and a concession stand), basketball court and general playground available for use. The Village Office sits in the middle of the park, which is a converted railroad station of historical significance. South of the office are three free boat launch sites and docks for mooring boats for short term stay. At the south end of the park is the Fox Pavilion, which can be used by the public for parties, picnics, and meetings. A second public bathroom is nearby. There is a newly created walkway so people can view the South Pond and the wildlife that live there. Off the shore of Frontenac Park lies the picturesque Frontenac Island that is an ancient burial ground for many Native American tribes.

The lake is noted for its bass fishing and there are several bass tournaments scheduled for each summer. The gazebo is the site where the Memorial Day Celebration is conducted where many residents and visitors gather to pay their respects for our fallen soldiers and remember our freedoms. There are youth programs at the park, soccer league, softball and baseball leagues, as well as adult leagues. Each summer the community comes together for Frontenac Fun Day. Many different organizations celebrate living in this community with games, various activities and lots of food. The park has several benches and picnic tables for people who just want to sit and watch the activities or view the beautiful sunsets that are breathtaking.

2.8.1 Public Access to the Waterfront

The Village of Union Springs is unique in that there are a number of opportunities for residents and visitors to access the waterfront and Cayuga Lake. Frontenac Park is located on the shores of Cayuga Lake. The park contains 1,800 feet of Cayuga Lake lakeshore with the entire length accessible to the public. There is also a free boat launch providing access to Cayuga Lake for boaters and fisherman. There is a swim beach on the north side of the parking lot. Dogs are permitted south of Chappell Street only.

2.9 VISUAL CHARACTERISTICS

The visual character of the Village of Union Springs is diverse including both natural and historic elements. The Village of Union Springs rests on the State Route 90 Scenic Byway and has wonderful views of Cayuga Lake, North Pond and of rolling agricultural and open land to the north and south of the Village center.

The Village of Union Springs possesses a past rich in history and can capitalize on its historic roots to maintain and enhance its own unique cultural and visual identity. The Village center is a place where people live and conduct business and where children are educated and cultural and public institutions function. It is a special area within the Village that exhibits characteristics and amenities important to the Village's past. The Village center has a critical mass of traditional "village" elements including prominent civic buildings, such as the library and post office, and number of interesting and locally significant buildings including the Frontenac Museum, the old fire house, the series of federal style buildings on the west side of the road, as well as the two churches that are found in this section of State Route 90.

The distinctive visual character of the Village center stems from its traditional "Main Street" design elements, including the strong street edge definition created by buildings uniformly built up to the sidewalk line. One of the most attractive blocks in the Village runs along the western portion of Cayuga Street (Scenic Route 90), between Chapel and Factory Streets.

2.10 HISTORIC, ARCHITECTURAL AND ARCHEOLOGICAL RESOURCES

2.10.1 Designated National Historic Resources

There are two properties within the Village of Union Springs that are listed on the National Historic Register. These properties are also listed on the State Historic Register.

Almeron Durkee House

Description

"The Almeron Durkee House, built ca. 1820, is a remarkably intact, two-story, three-bay, side-hall dwelling in the village of Union Springs in west-central Cayuga County on the east shore of Cayuga Lake. The building, the large and imposing dwelling sits on the east side of the road, between Chapel and Factory Streets.

county, several blocks south of the village's historic central business district. The nominated nine-acre parcel (i.e., all that survives of the former 90-acre Durkee farmstead) features gently sloping topography, broad lawns, scattered evergreen and deciduous trees, and a variety of informally planted bushes and foundation plantings. The house and two contributing support structures (a barn and a smokehouse) are situated about 20 yards back from the edge of the heavily traveled thoroughfare.

The house consists of a two-story, three-bay main block (with its gable end oriented eastward toward Cayuga Street) with a one and one-half story north (side) wing, both of which appear to date from the first quarter of the nineteenth century. The L-shaped superstructure, built of simply dressed random ashlar, rests on a slightly raised stone foundation and is surmounted by medium-pitched gable roofs sheathed with asphalt shingles and encircled by a molded wood entablature. Fenestration throughout the building is generally symmetrical: regularly spaced rectangular window openings contain six-over-six double-hung sash and are trimmed with smooth stone sills and lintels and louvered wood shutters. The front façade is distinguished by a handsome, trabeated entrance (including a massive stone lintel above a slightly recessed doorway with elegant half-sidelights) and a large, leaded glass oval window in the apex of the gable end.

A one-story frame wing, believed to date from the late nineteenth century, is attached to the south side of the main block. A one and one-half story, gable-roofed rear wing, built of stone and believed to date from the mid-nineteenth century, extends westward from the back of the main block. A small, non-contributing shed-roofed frame wing with an open front porch is attached to the northwest (rear) corner of the stone side wing.

A broad range of early and mid-nineteenth century features and fabric survive on the building's interior. Room configurations are intact as are virtually all decorative details, ranging from delicate, attenuated trim in the main block and stone north wing (including Adamesque mantelpieces, door and window trim, and a handsome winding staircase with turned newel and spindled banister) to Greek Revival style mantels and door and window trim in the rear wing. The frame south wing features much simpler treatments that appear to date from the late nineteenth century.

The farmhouse is complemented a large frame barn and a stone smokehouse, both of which date from the early to mid-nineteenth century. The barn is a one and one-half story, rectangular, gable-roofed frame building sheathed with vertical board siding. A one-story shed-roofed wing is attached to the south (side) elevation and a one-story, gable-roofed wing is located on the west (rear) elevation. The smokehouse is a small, rectangular, gable-roofed structure built of limestone blocks.

Significance

The Almeron Durkee House is architecturally significant as an outstanding example of early nineteenth century, Federal style domestic architecture in Union Springs. Built ca. 1820, the house is an imposing and remarkably intact, two-story, three-bay, side-hall Federal style dwelling that embodies the building and decorative techniques popular in the Central and Finger Lakes regions of the state during the first quarter of the nineteenth century. Built of simply dressed blocks of locally quarried limestone laid in random courses, the Durkee house is a finely crafted vernacular adaptation of the former farmhouse is complemented by two intact

The Almeron Durkee home, constructed during this early settlement period, is a fine example of federal architecture, built from limestone quarried in the area. Durkee (1799-1867) is the first recorded owner, having purchased the home and seventeen acres in 1827. (Extensive research has failed to ascertain the original owner and/or builder of the house.) Durkee continued to acquire adjacent land, which eventually totaled 90 acres. On this property he farmed timothy, clover, barley, wheat, corn, potatoes and sorghum. Durkee also owned a nearby stone quarry, numerous rental properties in and around Union Springs and additional land holdings north of the village. Befitting his wealth and status in the community, he occupied one of the most architecturally sophisticated dwellings in Unions Springs at the time. The house embodies many distinctive characteristics associated with Federal style domestic architecture in its L-shaped, gable roofed form consisting of a story, three-bay, side-hall upright and a one and one-half story side (kitchen) wing; its simple, finely crafted exterior woodwork (e.g. the wide entablature around the roofline); and bold stone decorative elements (e.g., the corner quoins and the smoothly hewn sills and lintels around the door and window openings). Particularly sophisticated Federal style ornamentation is found in the large, oval window with leaded tracery in the apex of the front gable end and the trabeated entrance with delicate wood molding and half-sidelights.

The home remained in the Durkee family until 1907, at which time Augusta Durkee sold it to John Vincent Irving, owner of the local marble works. (Irving's son Junius, the inventor of the spring activated loose-leaf notebook, was raised in this home.) In 1947 the property was acquired by Joseph Jakaub who, two years later, sold it to E. Payson Smith. Subsequent owners include the Gentile and Kimber families. Over time, the property has been sub-divided and today, the home is situated on approximately two of the original ninety acres. Complemented by two former, farm-related support structures (a barn and a smokehouse), both of which illustrate rural agrarian building practices of the mid-nineteenth century under criterion C. However, due to the loss of the original farmland associated with Durkee's holdings, the property no longer retains significance under criterion A for its association with the agricultural heritage of the Union Springs/Springport region of Cayuga County."

Citation taken from National Register Registration Form completed by Nancy Todd, Program Analyst for NYS Division of Historic Resources dated September, 2004.

Charles Howland-William H. Chase House

Description

The Howland-Chase House, built in 1840, is a remarkably intact, two-story, five-bay, center-hall stone dwelling in the village of Union Springs in west-central Cayuga County on the east shore of Cayuga Lake. A distinguished, Greek Revival style building, the large and imposing dwelling sits on the east side of Cayuga Street (NY 90), the main north-south thoroughfare through this part of the county, several blocks north of the village's historic central business district. The nominated 8-acre parcel (i.e., a small portion of original ca. 100-acre estate) features hilly topography, broad lawns, scattered evergreen and deciduous trees, and a variety of informally planted bushes and foundation plantings. The house and three contributing support structures (a stone barn, a stone shed, and a

The house consists of a two-story, five-bay main block with its gable ridge running parallel to Cayuga Street. A large, two-story rear wing runs eastward from the northeast corner of the main block, creating an L-shaped superstructure rising above a smoothly finished stone foundation. Both sections are constructed of large, roughly hewn blocks of locally quarried limestone laid in bold, horizontal rows. The medium-pitched gable roofs are sheathed with standing seam metal and encircled by simply molded wood entablatures. Fenestration throughout the building is generally symmetrical: regularly spaced rectangular window openings contain six-over-six double-hung sash and are trimmed with stone sills and lintels and louvered wooden shutters. The front façade is distinguished by a handsome, trabeated entrance that features a massive stone lintel supported by two bold, Doric order columns that frame the deeply recessed doorway. Elegant half-sidelights flank the six-paneled door.



Howland-Chase House

The two-story rear wing, contemporary with the main block, also features regularly spaced, six-over-six double hung sash with stone lintels and sills and louvered wood shutters. During the early 20th century, a one-story, sunroom with multi-paned, floor-length windows was added to the south side of the main block. Also dating from this time is the one-story porch that spans the rear elevation of the main block to join the east (side) elevation of the rear wing.

A broad range of mid-nineteenth century features and fabric survive on the dwelling's interior. Room configurations are intact as are virtually all decorative details, most of which are sophisticated interpretations of popular Greek Revival motifs. Bold, shouldered and dog-eared molding (some enhanced with faux-marbling) survives around virtually all door and window openings; numerous rooms contain handsome, classically inspired fireplace surrounds. Of particular note is the staircase in the front hall with its fine newel post and banister.

The farmhouse is complemented by a large stone barn, a stone shed, and a stone smokehouse (clustered together behind the house), all of which date from the early to mid-nineteenth century. All are finely crafted, rectangular, gable-roofed buildings built of locally quarried limestone. The large barn was awarded an \$18,000 grant from the Governor's New York State Barn Grant Program in 2004.

Significance

The Howland-Chase House is architecturally significant as an outstanding example of mid-nineteenth century, Greek Revival style domestic architecture in Union Springs. Built in 1840, the house is an imposing and remarkably intact, two-story, five-bay, center-hall stone dwelling that embodies the building and decorative techniques popular in the Central and Finger Lakes regions of the state during the mid-nineteenth century. Built of simply dressed blocks of locally quarried limestone, the Howland-Chase house is a finely crafted vernacular adaptation of high style building trends in the mid-nineteenth century. The house is accompanied by three intact support buildings (a barn, a shed, and a smokehouse).

Union Springs region of Cayuga County. (This remains true even though most of the land originally associated with the Howland-Chase farm is now owned and worked by a neighboring farmer.)

The first settlers arrived in what later became the town of Springport and the village of Union Springs in the late 1700's, having relocated from various parts of New England, New Jersey and Pennsylvania. Included among these early settlers were Revolutionary War soldiers who first visited the area while serving in the Sullivan campaign. All were drawn by the fertile land, temperate climate and the abundance of natural resources which included large quantities of native limestone. Of particular note in what later became the village of Union Springs were two springs, one of which, the northern one, never froze, thereby providing a source of hydropower all year long. The area's first white settler, Edward Richardson, recognized the potential of the north spring as a mill site and dammed the spring in 1789, creating what became known as North Pond. He built a small log mill there, but was soon forced to leave the area as a result of a dispute between the displaced Cayuga Indians and the State of New York. After Richardson's departure, a woolen mill was erected on North Pond. Asa Burnham kept a store in a red stone building at the southeast corner of the pond, and Jonathon Stout operated a tannery in the wooden house he had built on the opposite corner. Bush's blacksmith shop was south of Burnham's store and on the southeast corner was the Lucky House, a two-story tavern. By 1834 the woolen mill had been replaced by a third mill.

One of the most important forces behind the development of Union Springs during the second quarter of the nineteenth century was George Howland, a whaling baron from New Bedford, Connecticut. One of New Bedford's leading citizens who had grown rich in the whale oil industry, Howland decided to diversify his holdings by investing in the development of the then sparsely settled wilderness of the Finger Lakes Region of New York State. He discovered the bustling mill village of Union Springs, and laid claim to a spring at the north end of town that fed into Cayuga Lake. He was able to purchase the 1834 mill on North Pond. He razed it and, by 1836, had erected a massive, four-story, 65' x 84' stone gristmill with an adjoining saw and lath mill. Howland himself never lived in Union Springs, but he stationed two sons (Charles and Robert) and a daughter (Elizabeth) in the village to oversee his investments. In 1840 he financed the erection of a massive stone house, designed in the Greek Revival style and constructed of locally quarried stone, for his son Charles. (His son Robert received a massive, Gothic Revival style estate in 1849; it, too, is eligible for National Register listing.) Charles stayed in the house for only a short time; when he moved away, the house was given to his sister Elizabeth, who was (or was soon to be) married to William H. Chase. Chase, in his own right, was also a rich and important figure in Union Springs. A rendering printed in an 1875 atlas shows the house during the Chases' tenure. Chase was clearly one of Cayuga County's most prestigious gentleman farmers.

The house was occupied by the Chases at least until 1875. By the late nineteenth century, the house was being used as a dormitory for the nearby Oakwood (Quaker) Seminary, which had been started under the auspices of the Howland and Chase families, both of whom were devout Quakers. At some point the building's parapet and balustrades were removed, perhaps by ca. 1900, as was the one-story front porch. The formal garden depicted in the 1875 rendering was also lost. However, regardless of the loss of these original features, the Howland-Chase House remains one of the finest nineteenth century dwellings in the village."

Citation taken from National Register Registration Form completed by Nancy Todd, Program Analyst for NYS Division of Historic Resources dated September, 2004.

2.10.2 Designated State Historic Resources

There are no properties currently listed on the State Register that are not also listed on the National Register.

2.10.3 Architectural Resources

The architectural fabric of the village reflects the pattern of its history. Union Springs has an unusually high number of structures from the period 1830 to 1850, and an equally great number from the period 1850 to 1870. The number of late nineteenth-century structures is small by comparison. The structures generally are in good to excellent repair and most retain their architectural integrity. The use of a local gray limestone is a notable regional phenomenon. The earliest period of settlement coincidental with the opening of the areas' canals, was responsible for the abundance of Greek Revival buildings. The evolution of the Greek Revival style from Federal delicacy and linearity, through a transitional phase, to the mature late Greek Revival of the 1840s, can be clearly seen in the accurately dated homes of Union Springs. The village also contains outstanding Greek Revival commercial structures.

American architectural styles of the mid-nineteenth century are also present in great quantities in the village. The Gothic Revival was introduced to the community in 1847 by George Howland in the outstanding stone Howland/Maier House. Excellent examples of Italianate and Second Empire also contribute to the abundance of historically significant buildings located within the Village of Union Springs.

Architecture Summary based on "Historical and Architectural Significance, Union Springs, NY" completed in 1979 by Cornell University.

2.10.4 Archeological Resources

Most of the history of Frontenac Island is a result of archaeological work conducted by William Ritchie in the late nineteen thirties and nineteen forties. His investigations determined burial places for the Algonquin Indians and discovered artifacts dating from between 2,500 BC and 5,000 BC. Among the Native American burial and artifacts, which includes a headpiece carved from antler, a wolf jawbone has also been found on the island dating to 5,000 BC. The headpiece, wolf jawbone and other artifacts are currently on exhibit at the Rochester Museum of Arts and Sciences.

As a result of the Native American artifacts found on this island, numerous people have boated to the island in order to collect artifacts that can be found near the surface. Regretfully, the island is no longer its historical size since about a third of the island was excavated to provide materials to the development of the railroad.

As mentioned in earlier sections of the plan, Frontenac Island is one of only two islands located in the Finger Lakes region with Squaw Island in Canandaigua Lake being the other. Frontenac Island is larger than Squaw Island and appears to have played a more significant role in the local cultures. For more information on the archaeology of Frontenac Island refer to studies conducted by William Ritchie dated from the nineteen forties.

Due to the archaeological significance of the island it is encouraged that development of the island not be permitted. It is also encouraged that access to the island be restricted in order to prevent further removal of Native American artifacts.

Chapter 3 – Recommendations for Natural Resources

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Preserve and maintain the quality of the Village's environmental features.

1) **Objective: Encourage the preservation of North and South Ponds, which support wildlife throughout the winter months in the Village.**

Through local regulations protect these natural areas by limiting development. Promotion of nature trails or a nature center in the vicinity of these sensitive environmental areas would also aid in the protection of the resources.

Action #1-1

Action Needed: The Village should try to acquire North Pond in order to ensure that it remains forever wild and can be developed in such a manner as to protect this valuable natural resource.

Implementation Steps:

- a. Continue negotiations with current owners to acquire North Pond and if possible the Stone Mill adjacent to the pond.

2) **Objective: Increase public knowledge of water quality management and protection.**

Provide education through local newsletters or brochures to help educate the community of activities they can do or modify in order to protect local water resources.

Action #2-1

Action Needed: The Village should provide its residents with information on county sponsored Environmental Collection Day events and information on proper disposal of chemicals in order to prevent pollution of Cayuga Lake

Implementation Steps:

- a. Coordinate with Cayuga County Planning and Cayuga County Cooperative Extension to distribute event information to property owners to encourage responsible disposal of hazardous chemicals, and other items of environmental concern.

Action #2-2

Action Needed: Encourage the advertisement of the dog stations at Frontenac Park for residents to properly dispose of their dogs waste in order to reduce phosphorus inputs into Cayuga Lake.

Implementation Steps:

- a. Continue to provide dog stations within the park.
- b. Increase the number of dog stations, especially to the south, which is most heavily used by pet owners.
- c. Increase signage to make users of park aware of the dog stations
- d. Add dog stations at new parks where pets will be permitted in the future.

3) Objective: Review the Village code to determine the need for additional regulations to protect water quality.

The next revision of local regulations should look for opportunities to incorporate regulations to protect water resources.

Action #3-1

Action Needed: The Village should consider enacting a stormwater prevention law in order to review and enforce storm water plans within the Village. These plans ensure that the proposed steps are taken to prevent sediment from getting into waterways and ensuring that the water leaving a site is of the same quality and quantity as prior to the new development.

Implementation Steps:

- a. Work with Cayuga County Planning and Cayuga County Soil & Water District to develop a stormwater prevention law.
- b. Provide a provision within the law that triggers stormwater prevention on village scale lots that are less than one acre when the development will be taking place within 500 feet of an identified natural resource of concern.

Action #3-2

Action Needed: Update existing regulations to reference the stormwater prevention law.

Implementation Steps:

- a. Review zoning and subdivision laws to ensure consistency with stormwater prevention plan.

Action #3-3

Action Needed: Evaluate the Town of Springport's Wellhead Protection Plan to determine if that plan or a similar one should be adopted by the Village of Union Springs (see Appendix E).

Implementation Steps:

- a. Review the Plan to determine potential impacts on the Village of implementing the plan.
- b. Amend the plan where appropriate to reflect the needs of the Village of Union Springs
- c. Adopt a Wellhead Protection Plan for the Village of Union Springs.

4) Objective: Protect the state and federally designated wetlands within the Village.

The Village includes many wetlands, which include both North and South Ponds. There is also a substantial wetland complex along the outlet of North Pond to Cayuga Lake. These are sensitive areas within the Village that need to have protections.

Action #4-1

Action Needed: Initiate and support efforts to familiarize local officials and the general public with state and federal regulations that pertain to regulated wetlands.

Implementation Steps:

- a. Have a wetland map available within the Village office for consultation when needed.
- b. Have a summary of the applicable regulations that may be triggered by a project proposed adjacent to a wetland within the Village.

Action #4-2

Action Needed: Update existing regulations to provide for buffers and other measures in order to protect wetlands from negative impacts of development.

Implementation Steps:

- a. Amend local regulations to include buffers zones.
- b. Amend regulations to provide guidelines for responsible development in areas adjacent to the wetlands to protect the wetland and minimize flooding to the structures adjacent to wetlands.
- c. Consult with Cayuga County Soil & Water District on projects that may impact wetlands within the Village.

5) Objective: Adopt a Local SEQRA Type I List

Under the State Environmental Quality Review Act (SEQRA), municipalities can adopt its own list of "Type I" Objectives to supplement or more clearly specify those listed by SEQRA. Type I Actions require a more complete review of environmental impacts, than "unlisted" objectives. At a minimum, designation of a lead agency and submittal of a Full Environmental Assessment Form (EAF) is required.

Action #5-1

Action Needed: The Village should designate all development proposals for properties located within 500 feet of Cayuga Lake, the floodplain, and designated wetlands Type I Objectives under SEQRA.

Implementation Steps:

- a. The Village Board needs to pass a resolution that requires a Type I review for these areas of the Village in order to ensure the potential impacts are being properly evaluated.

Chapter 4 – Recommendations for Land Use

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL #1:** Encourage land use patterns that protect and enhance the unique character of the village while permitting a diverse range of land uses.

1) **Objective:** Update Zoning Ordinance to reflect current and future land use trends within the Village and to protect the traditional village character.

The Comprehensive Plan recommends a generalized land use pattern for the Village confirming existing land use patterns and providing recommendations for currently vacant lands. New or amended zoning laws will be required to implement many of the Comprehensive Plan recommendations. Overall, the use classification, density recommendations and boundaries of zoning districts should be based on the natural constraints of land, compatibility with existing land use patterns, and the goals identified in this plan. The plan recognizes that the Village is largely developed with a traditional village-style land use pattern that should be protected and strengthened. As such, the recommendations for land use seek to protect Union Springs's traditional village character, to promote the economic revitalization of the downtown, to minimize land use conflicts, to protect sensitive natural resources, to accommodate future growth, and at the same time allow for a healthy mix of diverse land uses compatible with the character of the community.

Action 1-1

Action Needed: General land use districts have been proposed for the Village. The districts are designed to reinforce and strengthen existing traditional village land use patterns. These proposed land use districts were delineated with the intent of revising the existing zoning map and law to conform to these areas. This objective would involve an amendment to the zoning law. It is expected that additional public comment would occur before the adoption of a revised zoning law.

Implementation Steps: Recommended Land Use Pattern

- a. Modify existing zoning law to incorporate the proposed Zoning Districts described in the following paragraphs.

The paragraphs that follow detail some of the concepts behind the proposed Land Use Map (see Figure 11). The districts are named and the general purpose and intent for each district is described. This section also describes the general purpose and intent for each district and relative development densities that are

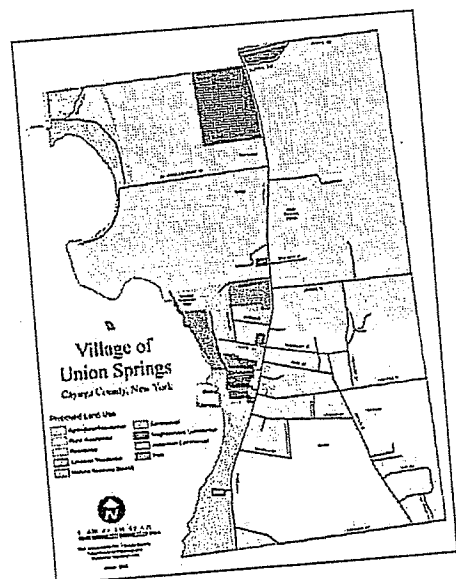


Figure 11: Proposed Land Use Map

Proposed Zoning Districts

Agricultural Residential (AR)

This district is located in the northern portion of the Village and is nearly the same as in the current zoning law. The main purpose of this district is to provide a rural atmosphere within the Village and to allow some farming practices within the Village. The minimum lot size for this area is ½ acre to allow medium to low density development. Large tract development in this area should be encouraged to use clustering or other techniques to preserve open space and the scenic character of the area. Even though agricultural uses will be permitted in this area, livestock and manure and/or septage spreading should be prohibited or restricted in order to minimize neighbor-farmer conflicts and to protect the water quality of both the Village's Wellhead and Cayuga Lake.

Rural Residential (RR)

This newly created district is located in the southern portion of the Village, east of Scenic State Route 90. This area has seen an increase in large lot developments. This trend should be encouraged with a minimum lot size of ¾ acre. Since most of this area is no longer being farmed, and there is a school located in this district, it is recommended that farming no longer be encouraged in this area, but any existing farming practices may continue until abandoned.



Rural Housing, Grove Street

Residential (R)

This zoning district is similar to the current zoning law, but with a reduction in the lot size. This portion of the Village has higher density residential development that is typical of a traditional village. This trend should continue by lowering the minimum lot size from 12,000 to 7,500 square feet. The minimum lot width should also be reduced from 100 to 60 feet. This will allow a number of currently non-conforming lots within the Village to conform and to encourage any new development to be consistent with the surrounding neighborhood.



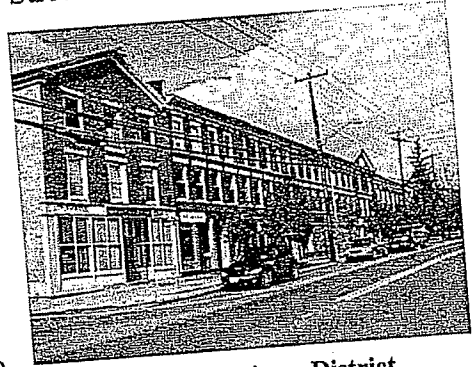
Residential Housing, Center Street

Lakeside Residential (LR)

This newly created zoning district is recommended in order to address the specific issues that waterfront residential properties face. These parcels tend to be long and thin, often wider at the road front and narrower at the lakeshore. It is recommended that the minimum lot size be ½ acre with a 100 foot minimum width. It is also recommended that definitions be given for front, side and rear of the lot for determination of applicable setbacks. For the portion of the lot that has frontage on the road will be considered the front yard, the rear yard, all others will be considered

Historic Business District (HBD)

The Historic Business District is located in the Village Center and includes lots with frontage on Scenic State Route 90 (Cayuga Street) and is bordered by Chapel Street to the North and Center Street to the south. This portion of the Village contains many historic buildings and was once the thriving heart of the Village. It is recommended that any new lots conform to those of this area with small lot sizes and lot widths. Also, any infill structures should meet the setbacks of the adjoining structures or meet the sidewalk line, depending on which is more appropriate for the location. The current regulations for commercial lots of 5,000 square feet and 50 feet minimum width seem appropriate in this area. It is also recommend that any redevelopment or new development be required to undergo site plan review to ensure that it stays in character with the other buildings in this part of the Village. Buildings should be placed close to the road with parking in the rear. The building should be tall, preferably with commercial business on the first floor and housing on the upper floors. Housing should not be permitted on the first floor in this district.



Historic Business District
Cayuga St.

Commercial (C)

The Commercial District as proposed is a conversion of the former Industrial District. Since industry is no longer viable in the Village, this area is being converted for larger commercial operations or other similar type uses. Other uses permitted for this land should be large recreational uses, such as an indoor soccer arena. Given the close proximity to Frontenac Park and the lake, this zone should transition to recreational over time. Any existing industrial uses in this area will be permitted to continue until abandoned.



Shopping Plaza, Cayuga St.

Neighborhood Commercial (NC)

This is another newly created district that extends intermittently on the west side of Scenic State Route 90 from Basin Street in the south to the Village limits in the north. The purpose of this district is to allow both residences and commercial, but any commercial activity should take place in a way that reflects the residential portion of the district. The buildings should be set back from the road with yards and landscaping between the building and the road. Parking should be to the side or rear of the building. Residences in this area may be converted from residential to commercial, but not at the expense of the residential character.

Waterfront Commercial (WC)

There are two areas of Waterfront Commercial in the Village, the area of Hibiscus Harbor and the area between Foundry Street and the lake. Both of these areas currently contain marinas. These and other lake related businesses and/or restaurants should be encouraged in these areas.

Park (P)

These lands provide an invaluable resource to the quality of life of residents and tourists. Development on these lands should be prohibited except for traditional park amenities such as benches and pavilions. Linkages between these areas should be considered and opportunities for expansion of the park resources should be evaluated. There was interest expressed in the public surveys of having a nature center and trails within the community. These areas would be best suited to that type of development.

Planned Development District (PDD)

Planned Development Districts gives the community more control over certain types of developments and allow uses to come into the community that otherwise would be restricted. An example of some of the uses that should be governed under the PDD process are industrial uses, adult uses, high density residential developments such as mobile home parks and condominiums, and shopping centers.

Planned Development Districts are an overlay zone in that these locations do not appear on the map until an individual applies for a project. Once a complete application is received, the Village Board will consider the zoning change of the parcel to a PDD. The Planning Board will then begin the review process for the proposed PDD project. This process is very detailed and includes site plans, SEQR and other required documentation in order for the board to properly evaluate the potential impacts of a project to the Village.

Floodplain (F)

The Floodplain zone would act as an overlay zone and would not change the permitted uses of the zone granted to the area. Rather, this zone would require new development in areas prone to flooding to undergo site plan review to minimize future flooding impacts. This review will help to ensure that new development will not have a negative effect on other properties as a result of possible changes in drainage pathways or grading.

2) Objective: Restrict Drive-In and Auto-Related Uses

Pedestrian safety is a critical issue in the Historic Business District and zoning for appropriate land uses that cater to pedestrians is one of the most important solutions. Additional drive-in commercial and auto-related uses (e.g., gas stations, car washes, auto repair shops, and car dealers) should be restricted in downtown Union Springs. These uses require curb cuts, which decrease pedestrian safety by creating "foot wall" or building setback lines of

canopies, bright lights, and large, internally lit signs--which are incongruous with and weaken the Village's traditional downtown development style and negatively affect its visual character.

Action#2-1

Action Needed: For existing auto-related uses, regulations limiting lighting and canopies should be added. Curb cuts for these uses should be limited and definable driveways required. These measures will help to protect community character and pedestrian safety in the Village center.

Implementation Steps:

- a. Ensure the zoning regulations and site plan provisions regulate lighting type, direction and height.
- b. Ensure any future development of these types of businesses have reduced and clearly defined curbcuts.
- c. Restrict the use of canopies and signage.
- d. Adopt a curb cut standard that would limit the number of curb cuts per property, including, minimum and maximum curb cut standards.

3) Objective: Encourage and Regulate Home Occupations

The Village should encourage home occupations which have minimal impact on residential areas, with restrictions on traffic, parking, number of employees, maximum square footage as a proportion of the dwelling, signage, expansion of existing facilities, and noise, and other factors. The home occupations should be compatible with existing neighborhood character.

Action#3-1

Action Needed: Home occupations should be regulated by special permit to ensure compatibility with the surrounding neighborhood and to ensure adequate parking, signage and space.

Implementation Steps:

- a. Ensure the local regulations address home occupations through special permit.

4) Objective: Adopt Design Guidelines

The Village should revise and augment the site plan standards, subdivision regulations, and zoning, and provide consistent enforcement to ensure that new development is in keeping with the community's traditional village development scale and pattern.

Action#4-1

Action Needed: The Village should adopt the design guidelines developed by Yuhus Land Design and Thoma Development for the Scenic Route 90 Waterfront Villages in order to provide guidance for local boards to shape the appearance and character of its built environment in a way that is compatible with its existing development patterns. A copy of this plan is available at the Springport Free Library and on the Scenic Route 90 website.

Implementation Steps:

- a. Adopt the design guidelines developed by Yuhus Land Design and Thoma Development for the Scenic Route 90 Waterfront Villages.

5) Objective: Develop appropriate regulations for Adult Entertainment Businesses, Cell Towers and Wind Energy Towers

The Village should develop provisions within the Planned Development District requirements in order to properly evaluate applications for Adult Entertainment Businesses, Cell Towers and Wind Energy Towers.

Action#5-1

Action Needed: The Village should develop guidelines for the review of Adult Entertainment Businesses to be used with the Planned Development District regulations. These guidelines must be based on potential secondary impacts of these businesses. The Village of Margaretville conducted a study of the potential impacts of Adult Entertainment Businesses on a Village that does not currently have any businesses of this type. The guidelines for the Village of Union Springs should be based on the recommendations of that study.

Implementation Steps:

- a. Review the Adult Entertainment Study conducted by the Village of Margaretville.
- b. Determine which recommendations would apply to the Village of Union Springs.
- c. Include those recommendation in the guidelines used through the PDD process to regulate Adult Entertainment Businesses.

Action#5-2

Action Needed: The Village should develop guidelines for the review of Cell Towers and other similar structures to be used with the Planned Development District regulations.

Implementation Steps:

- The guidelines for review of these proposals under the Planned Development District

Action#5-3

Action Needed: The Village should develop guidelines for the review of Wind Energy Towers and other similar structures to be used with the Planned Development District regulations.

Implementation Steps:

- a. Develop guidelines for review of these proposals under the Planned Development District section of the Village Zoning Law.
- b. Consideration should be given to the protection of the Indiana Bat, and species on the Federal Endangered Species List, that can be impacted by these types of developments.

B) GOAL #2: Preserve and enhance permanent open space that protects significant cultural, scenic and natural features and helps to maintain the Village's small town character.

1) Objective: Encourage the protection of important community land resources, especially along the lakeshore and North and South Ponds.

It is important to the community that the natural resources such as the lakeshore, South Pond and North Pond are protected and are available for public enjoyment. The Village should give every effort into acquiring North Pond for the public interest and if possible to also acquire the Stone Mill adjacent to the pond. The mill provides both an aesthetic and historic resource for the community and should be protected if possible.

Action #1-1

Action Needed: The Village should try to acquire North Pond in order to ensure that it remains forever wild and can be developed in such a manner as to protect our natural resources.

Implementation Steps:

- a. Continue negotiations with current owners to acquire North Pond and if possible the Stone Mill adjacent to the Pond.
- b. Research possible historic significance of former structures within and adjacent to North Pond.

C) GOAL #3: Maintain an effective, efficient, and up to date planning and land use development process.

1) Objective: Maintain Local Laws and Plans to ensure their applicability to the Village's future needs.

A review of the Comprehensive Plan, site plan, subdivision, design and construction standards for development of land, and other land use regulations shall be reviewed and if necessary amended to meet the needs of the community.

Action#1-1

Action Needed: Require that the Comprehensive Plan and all local laws be reviewed annually and modified as needed to ensure that they are continually up to date.

Implementation Steps:

- a. Set one month each year and task the Planning Board to review the Comprehensive Plan and local regulations for potential updates.

Action#1-2

Action Needed: Maintain an Implementation Matrix as an appendix to the Comprehensive Plan that can be used to track progress made on various tasks within the Comprehensive Plan and delegate the responsibilities of various tasks to different departments, groups and agencies. (Appendix A)

Implementation Steps:

- a. Continually review and update implementation matrix located in Appendix A of this plan.

Action#1-3

Action Needed: Develop and maintain Wellhead Protection Plan for the Village of Union Springs. (Appendix E)

Implementation Steps:

- a. Obtain a copy of the adopted Wellhead Protection Plan for the Town of Springport.
- b. Review the plan for appropriateness for use for the Village of Union Springs.
- c. Once plan is completed, the Village Board should consider adoption of the plan.
- d. Update other land use regulations where appropriate in order to implement the Wellhead Protection Plan.

2) Objective: Place Time Limits On Site Plan, Special Permit, and Subdivision Approvals

Create "sunset" provisions for projects that have received discretionary approval, but have not been constructed. It is recommended that when a project receives site plan and/or special permit approval, but construction has not commenced after a specified period, then the permit becomes invalid. Similarly, if subdivided parcels are not developed within a reasonable time frame the approval should become null and void. This protects the community from having projects "on the books" which may not conform to regulations effective after the project approval date.

Action#2-1

Action Needed: Add expiration times to discretionary permits in order to encourage applications to be acted upon.

Implementation Steps:

- a. Add expiration times to discretionary permits in order to encourage applications to be acted upon in a timely manner.
- b. Provide for a three or six month administrative extension, under certain circumstances, prior to making a discretionary permit invalid.

3) Objective: Make Land Use Regulations Clearer and Easier To Use

The Village should amend its zoning regulations to include clearer purpose and goal statements for each district and add illustrations or pictures where needed to clarify requirements.

Action#3-1

Action Needed: Make zoning and other local regulations clearer and easier to use.

Implementation Steps:

- a. Add illustrations or pictures to clarify the regulations.
- b. Expand definitions section to ensure that all applicable terms are clearly defined.

4) Objective: Enhance Land Use Training for Local Officials

New York State requires that Planning and Zoning Board members receive a minimum of 4 hours of training each year. As a result, the Village should send its representatives to land use training courses given by groups such as the Cayuga County Department of Planning and Economic Development, New York Planning Federation, the New York State Conference of Mayors, and other state and regional agencies. If these training opportunities are not available, the Village should encourage the use of distance learning opportunities such as on-line training.

Action#4-1

Action Needed: Attend local training sessions.

Implementation Steps:

- a. Distribute notifications received of upcoming training opportunities.
- b. Priority should be given to Planning and Zoning Board members to help to ensure that project review minimizes and mitigates land use impacts and to comply with State requirements. Attendance of these trainings where practical.

5) Objective: Continue a high level of enforcement of environmental, building code, and other regulatory compliance.

It is vital to the success of this plan and the Village's local laws to have adequate and responsible code enforcement. The Village should ensure that the person who has been appointed to the position of code officer is properly enforcing both the Uniform Building Code and Fire Code, and the Village's local regulations.

Action#5-1

Action Needed: Appoint a code officer who will consistently uphold the Uniform Building Code, Fire Code and local regulations

Implementation Steps:

- a. When the opportunity arrives to appoint a new code officer, the Village Board should conduct interviews and check references to ensure the caliber of the applicant.
- b. The code officer should be evaluated on a yearly basis and/or before the renewal of a contract for code enforcement services.
- c. The Village Board, Planning Board, Zoning Board of Appeals, and the clerk should all have an opportunity to evaluate the code officer and submit their findings to the Village Board for review.

Chapter 5 – Recommendations for Housing

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Promote housing opportunities for all residents of the Village of Union Springs that is of quality construction, variety, affordability and accessibility.

1) Objective: Increase Affordable Housing Opportunities for Elderly in the Community

Increase the availability and quality of housing for low- and moderate-income senior and handicapped persons, such as congregate care housing, rent-subsidized housing, assisted living centers, shared housing, or independent home care facilities.

Action#1-1

Action Needed: Through local regulations, permit the diversity of housing for low- to moderate-income residents, elderly and the disabled.

Implementation Steps:

- a. Permit rental residential housing where appropriate.
- b. Permit the expansion of senior housing if needed.
- c. Provide provisions within the Zoning Law to exempt access ramps from setback requirements to allow improved access for disabled residents.

2) Objective: Encourage Diversity of Housing through the Development of Condominiums and Town Houses

There is a need in the community for higher income housing. Surveys that were conducted have shown that residents are looking for more diversity on their housing choices in the Village. In order to encourage this type of development the Village should consider working with local property owners to pre-permit parcels in the Village that are determined to be appropriate locations for this use.

Action#2-1

Action Needed: Determine areas that would be suitable for higher income multi-unit housing and reduce restrictions on developing this type of housing in those areas.

Implementation Steps:

- a. Incorporate pre-permitting in the areas of the Village that would be suitable for condominium and town houses.

3) Objective: Encourage Conservation Subdivisions in Areas of the Village where Scenic Views and Open Space Should Be Protected

The zoning law and subdivision regulations should be written to ensure that residential density in a conservation subdivision does not exceed the density that would be permitted with a traditional subdivision layout; is situated to minimize visual impacts; and has reserved open space areas to provide usable, accessible, and linked recreational land that meet the needs of residents.

Action#3-1

Action Needed: Apply conservation subdivision techniques within the Village in order to encourage development in a manner protective of open space and natural resources.

Implementation Steps:

- a. Evaluate conservation subdivisions provisions in the Village zoning and subdivision laws.

4) Objective: Revitalize Older Structures

The Village, in conjunction with housing agencies, should evaluate underutilized and deteriorating older buildings for the potential re-use as affordable and/or senior housing apartments. Infill and/or adaptive reuse development would meet a specific housing need and concentrate residential development within the Village or in the areas of the Village with adequate infrastructure and services.

Where appropriate, the Village should work with non-profit affordable housing agencies to secure public funding and to redevelop suitable properties. These groups can supply revolving loan funds, facade improvement programs, or labor assistance in upgrading homes. The Village should also encourage the establishment of neighborhood preservation groups to promote revitalization of specific areas.

To encourage owners to upgrade and maintain their properties, the Village should advertise and promote housing rehabilitation programs available through County, State and Federal governments for properties in the historic village center. The Village should pursue additional Community Development Block Grants (CDBG) funding and other funding available to municipalities for housing rehabilitation.

Action#4-1

Action Needed: Determine what housing within the Village is underutilized and suitable for conversion to Senior Housing.

Implementation Steps:

- a. Develop an inventory of underutilized structures within the Village and determine which would be suitable for conversion to affordable senior housing.
- b. Make a determination of what work would be involved to make the conversion.
- c. Determine funding sources to modify and rehabilitate the structures.
- d. Modify provisions in law relating to rental properties.

5) Objective: Encourage Maintenance of Rental Housing by Non-Owner Occupied Landlords

The Village should establish a program to encourage maintenance by non-owner occupied landlords. The Village should also develop property maintenance codes, which address the major maintenance issues in the community, are easy to understand and enforce, and have effective levels of penalties.

Action#5-1

Action Needed: Develop easy to implement property maintenance code with clear penalties for non-compliance.

Implementation Steps:

- a. Work with the Village Code Officer to develop a simplistic property maintenance code for landlords.
- b. Develop a list of penalties for violation of the code.
- c. Encourage the Code Enforcement Officer to consistently enforce the code.
- d. Recommend periodic inspections, and/or inspections on turn-over to ensure indoor compliance of the Uniform Building and Fire Code.

Action #1-1

Action Needed: Determine the quantity and quality of off-street parking available in the rear of the buildings on Cayuga Street.

Implementation Steps:

- a. Inventory the amount of parking.
- b. Identify ownership of the areas behind the Cayuga St. buildings.
- c. Investigate options for easements for the Village to use the area behind the buildings as a parking area to support business owners.

C) GOAL: Provide a "pedestrian friendly" atmosphere in the Village by maintaining, enhancing, and extending the sidewalk network in the Village.

1) Objective: Improve Pedestrian Access throughout the Village and Provide Connectivity to Destinations within the Village

Overall, the Village of Union Springs has an adequate transportation network that provides residents with good accessibility to major highways. However, much needs to be done to meet the needs of pedestrians and create a "livable" community within Union Springs.

Improving pedestrian infrastructure is a top priority for the plan. Convenient and safe non-motorized access between different land uses (e.g., commercial, residential, recreational, community facilities) is essential for the well-being of the community. This is especially true when connecting downtown Union Springs to Cayuga Lake, Frontenac Park, North Pond, senior housing, schools and residential neighborhoods. The absence of an adequate and continuous sidewalk system discourages pedestrian traffic, creates dangerous conditions for pedestrians, and deprives communities of places for people to casually interact with other people. In addition to sidewalks, an analysis of the cross-walks within the Village should be conducted to see if they are in appropriate places, and properly marked.

Action #1-1

Action Needed: Analyze the current pedestrian transportation system to see where improvements need to be made.

Implementation Steps:

- a. Inventory location and condition of existing sidewalks.
- b. Inventory location of crosswalks.
- c. Look at pedestrian patterns to determine if there are areas in need to sidewalks or crosswalks.
- d. Evaluate feasibility of adding a pedestrian crossing light across State Route 90 that is button triggered.

2) Objective: Develop a Sidewalk Plan

Developing a sidewalk plan will allow the Village to identify priority areas for sidewalk construction and rehabilitation, and create financing methods for their construction and maintenance. The sidewalks should also incorporate barrier-free circulation into the walkway systems to provide handicapped access.

The first priority should be to construct the missing sections of sidewalk in the areas where the sidewalk system is essentially complete besides a few missing segments. Once the existing system is completed, sidewalks in the outlying subdivisions of the Village, that currently have no walkways, should be built.

New developments should be required to provide sidewalks that conform to Village specifications and be fully linked to the pedestrian system. Within new and retrofitted commercial development sites, pedestrian walkways should be provided directly from building entrances to the sidewalks along roadways. All new residential subdivisions should be required to have sidewalks that connect to the existing pedestrian system, if feasible.

Action #2-1

Action Needed: Once the inventory is completed, develop a plan to address the inadequacies identified by the inventory and funding sources to implement the plan.

Implementation Steps:

- a. Outline locations for new sidewalks.
- b. Outline locations for sidewalk replacement.
- c. Outline locations for new crosswalks.
- d. Identify funding sources to construct sidewalks.
- e. Contact NYS DOT to determine procedure for adding crosswalks.

3) Objective: Promote Pedestrian Activity/Public Education

The Village should educate the public on its traditional and pedestrian-friendly qualities. While in most areas the auto dominates, Union Springs remains a community where multiple transportation choices are available. Pedestrian activities enhance the vibrancy of village downtowns, such as Union Springs. The community should encourage pedestrian activities by supporting and sponsoring exterior walking tours and similar activities.

Action #3-1

Action Needed: Encourage pedestrian activities and events to encourage pedestrian uses within the Village.

Implementation Steps:

- a. Develop an event or walking tour along the exterior of structures to encourage pedestrian activity within the Village.

Chapter 7 - Recommendations for Infrastructure

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Promote the maintenance, enhancement and development of municipal utilities that meet the needs of as many people as practicable in the most cost-effective manner.

1) Objective: Continue To Ensure Adequate Water Pressure

In order to mitigate any significant loss of pressure due to potential increases in water demand, the Village Water District should continue to make improvements to the water system, ensuring adequate water pressure for fire prevention and domestic purposes throughout the Village.

Action #1-1

Action Needed: Develop an overall improvement plan for the Village's water distribution system.

Implementation Steps:

- a. Conduct an inventory of the current waterlines within the Village.
- b. Document the condition of waterlines.
- c. Detail the planned maintenance for waterlines.
- d. Identify areas for potential future expansion.

2) Objective: Maintain Sanitary Sewer System

Action #2-1

Action Needed: Develop an overall improvement plan for the Village's sanitary sewer distribution system.

Implementation Steps:

- a. Conduct an inventory of the current sanitary sewer system within the Village.
- b. Document the condition of sanitary sewer system lines.
- c. Detail the planned maintenance for sanitary sewer system lines.
- d. Identify areas for potential future expansion.

Action #2-2

Action Needed: Develop an expansion plan for the existing sanitary sewer treatment facility. Since the current system can only handle approximately 120 more units, a plan of expansion should be developed to prepare for the Village's future needs if there were additional development within the Village or in the Town of Springport.

Implementation Steps:

- a. Conduct an assessment of the current sanitary sewer treatment facility's limitations.
- b. Determine the most cost effective way of expanding the current facility.
- c. Develop separate expansion plans depending on the extent of upgrade needed.

3) Objective: Maintain Storm Drainage System

Action #3-1

Action Needed: Develop an inventory for the Village's storm water conveyance system.

Implementation Steps:

- a. Conduct an inventory of the current storm drainage system.
- b. Identify areas that need repair, cleaning or dredging.
- c. Identify areas that need additional storm drains.

Action #3-2

Action Needed: Educate the community on importance and function of storm drains.

Implementation Steps:

- a. Consult agencies such as Cayuga County Soil and Water District and Cornell Cooperative Extension of Cayuga County to develop educational materials for Village residents.
- b. Increase resident knowledge of the function of stormdrains and why they shouldn't use them for waste disposal.

Chapter 8 - Recommendations for Government

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) GOAL: Maintain an efficient government with reductions in duplications of efforts and equipment.

1) Objective: Take advantage of federal, state, and county funding and shared staffing available to offset village costs for municipal services.

Action #1-1

Action Needed: Investigate ways to offset costs for village services.

Implementation Steps:

- a. Compile a list of the agencies that would be aware of available funding.
- b. Have the Village added to e-mail notification lists for funding applications.
- c. Evaluate resources for grant writing.

2) Objective: Ensure that adequate space is available for all necessary municipal facilities.

Action #2-1

Action Needed: Develop a capital plan for the Village to determine the current and future needs of each department.

Implementation Steps:

- a. Work with the Village departments to determine their needs.
- b. Project future needs for the Village departments
- c. Develop a capital plan that will detail the current and future needs and evaluate possible options for future growth.

3) Objective: Publicize Village code and services via a Village of Union Springs Internet web site.

Action #3-1

Action Needed: Greater utilize the Village website.

Implementation Steps:

- a. Add .pdf versions of all the Village regulations to the website.
- b. Add current minutes to the website for each of the Village boards.
- c. Add current water reports to website.
- d. Find a knowledgeable member of the community to volunteer to update the website on a regular basis.

B) GOAL: Coordinate with surrounding municipalities to share resources and equipment when possible in order to reduce expenditures.

1) Objective: Encourage Inter-Governmental Cooperation

This is a general policy that encourages the sharing of services (e.g., a grant writer) and facilities (e.g., recreational facilities) among government and institutional agencies starting with coordination between the Town of Springport and the Village of Union Springs. When appropriate, cost savings for shared services and/or coordination of equipment should be estimated to help guide decision-making. Costs should also be shared among participating groups and/or municipalities.

Action #1-1

Action Needed: Establish resources that would be able to be shared with other municipalities.

Implementation Steps:

- a. Determine what resources the Village has that it could share with the surrounding municipalities, and what the Village may need from them.
- b. Meet with the Town of Springport to determine if there are any opportunities for shared resources.
- c. Develop a model intermunicipal agreement to be used when the opportunity to share resources is available.

2) Objective: Encourage the joint use of community facilities, including school, park, recreation, and public safety systems, to promote efficiency in use and avoid duplication and overbuilding of services.

Action #2-1

Action Needed: Coordinate with the school and surrounding area to determine the community and recreational needs and determine if they can be met with a cooperative effort.

Implementation Steps:

- a. Meet with community groups to determine the community and recreational needs.
- b. Meet with municipalities to determine the community and recreational needs and capacity to provide for those needs.
- c. Meet with school district to determine the school's needs and capacity to provide for those needs.

Action #2-2

Action Needed: Determine the cost and feasibility of providing police protection for the three waterfront villages.

Implementation Steps:

- a. Meet with the Village of Cayuga and the Village of Aurora to determine need and available funding for police protection.
- b. Consult the Cayuga County Sheriff's office to determine what times they receive the most calls and any advice on the process they may wish to share.
- c. Look for grant funding that may be available to support additional police protection in the Villages.
- d. Request a Request for Proposal (RFP's) from private firms to determine the availability and quality of services available.

Action #2-3

Action Needed: Determine the student capacity of the Union Springs Central School District and future enrollment predictions for the school district.

Implementation Steps:

- a. Meet with the School Board members or staff to gain information on future enrollment predictions and the student capacity of the school district.
- b. Once obtained, consider this information in planning activities that would involve a potential of the Village.

Chapter 9 - Recommendations for Community Services

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Facilitate the provision of social and community services by private and not-for-profit organizations.

1) **Objective:** Assist in the promotion of activities and events sponsored by local organizations.

Action #1-1

Action Needed: Provide a display at the Village offices for brochures that highlight events and activities of local organizations.

Implementation Steps:

- a. Develop a display area for information of interest to residents.
- b. Have a local bulletin board within the Village to post information of interest to local residents.

2) **Objective:** Compile contact information on local and county agencies that provide services to Village residents.

Action #2-1

Action Needed: Develop publications that summarize services available to Village residents.

Implementation Steps:

- a. Develop a brochure of local agencies and their contact information.
- b. Invite representatives to write articles for a local newsletter highlighting their services.

2) **Objective:** Increase public participation in Village Government.

Action #2-2

Action Needed: Consider forming a Citizen's Advisory Board to comment on proposed Village actions.

Implementation Steps:

- a. Village Board of Trustees should consider establishing a Citizen's Advisory Board by resolution.

Chapter 10 - Recommendations for Cultural Resources

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) GOAL: Increase the amount and types of cultural activities available to the Village residents and tourists.

1) Objective: Promote Cultural Activities within the Village

Based on the survey, residents would like more festivals and music concerts. The community should contribute staff and volunteer time and financial assistance to increase the number of regularly scheduled local and regional cultural special events in downtown Union Springs. These events should be organized in conjunction with co-sponsors such as the Union Springs Chamber of Commerce, the Frontenac Museum, local or regional arts groups, and other special interest groups, when appropriate.

To promote connections to agricultural tourism in the region, the Village should consider instituting a weekend farmer's market within walking distance of the downtown area. Folk singers and other entertainment can add to the festive atmosphere.

The Village should actively explore ways of attracting tourists to downtown Union Springs from nearby attractions (such as Bass Pro Shops) through increased advertising and promotion, special tours, van service, etc.

Action #1-1

Action Needed: Determine potential locations for cultural events.

Implementation Steps:

- a. Evaluate venues within the Village for possibility of use for cultural activities. Some possible locations would include Frontenac Park, Frontenac Museum, Springport Library and the property owned by the Seventh Day Adventists.
- b. For each property identified, contact the property owner to determine what types of cultural events they would consider hosting.
- c. Develop temporary signage to direct visitors to the location of the event.
- d. Develop guided walks at North Pond that will be led by a guide or docent, focusing on bird identification and general natural history of the site.
- e. Advertise and promote cultural events.
- f. Provide self-interpretive signage at Frontenac Park and at North and South Ponds for winter birds.

Action #1-2

Action Needed: Determine feasibility of creating a shuttle from the Finger Lakes Mall to the Village of Union Springs to enhance visitation of events.

Implementation Steps:

- a. Meet with Bass Pro to see if there is interest in co-sponsoring a shuttle to the Village.
- b. Meet with the Chamber of Commerce to see if there is interest in co-sponsoring a shuttle to the Village.
- c. Encourage area business that would benefit from the shuttle to help pay for a portion of the cost.
- d. Contact the City of Auburn to see how they have funded the "Downtownner" shuttle to see if their program may be used as a model.

2) Objective: Promote Cultural and Entertainment Uses

To attract more visitors to the Village, there is a need for more restaurants and other similar uses to be developed. The Village should actively encourage the development of appropriately scaled tourism based uses such as, cafes and restaurants, art galleries, antique shops, and inns.

Action #2-1

Action Needed: Add or remove provisions to the existing land use regulations that would restrict appropriately scaled tourism uses such as, cafes and restaurants, art galleries, antique shops, and inns.

Implementation Steps:

- a. Permit by right uses that would support cultural and entertainment activities within the Village.
- b. Provide provisions for Bed & Breakfast establishments within the Village.

Chapter 11 - Recommendations for Recreation

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) GOAL: Improve and expand recreational facilities in the Village of Union Springs and ensure that they are accessible and meet the diverse recreational needs of all residents.

1) Objective: Make needed improvements to existing village parks and recreational facilities.

Action #1-1

Action Needed: Create a development and management plan for the park to determine what maintenance activities are needed and what improvements are required to meet the needs of the residents.

Implementation Steps:

- a. Develop a plan for the park by working with a landscape architect or park planner.
- b. Document needed improvements and upgrades.
- c. Develop a maintenance schedule for the park along with an estimated budget.
- d. Determine a funding source.

2) Objective: Support an "all ages" recreation/social center in Union Springs to meet the social and recreational needs of all the residents in the Village.

Action #2-1

Action Needed: Compile a list of the social and recreational activities currently available within the Village and the organizations that offer them.

Implementation Steps:

- a. Contact the groups within the Town that offer social and recreational opportunities for the Village residents.
- b. From these groups obtain a schedule of upcoming programs, who they are targeted towards and when they are offered.
- c. Compile this information in one location for easy access for Village residents.

3) Objective: Address specific deficiencies in the recreational facilities available to residents, especially for teenagers and younger children. Consider establishing a youth center.

Action #3-1

Action Needed: A survey was conducted in 2005 to determine the recreational needs of the Village's youth. Follow-up actions need to be taken to make the best use of this information.

Implementation Steps:

- a. Review results of 2005 youth survey.
- b. Determine if the survey needs to be redone with a larger audience, or different questions.
- c. Develop a couple of the more viable recreational objectives based on the survey and present them to the youth of the community for comment
- d. Identify a funding source for improvements and/or programs.

4) Objective: Consider cooperating on the development of regional recreational facilities that may be too expensive for the Village to develop on its own (e.g., an indoor public pool or skating rink).

Action #4-1

Action Needed: Initiate a meeting of potential regional partners to determine the needs of the region and offer to host the location of the facility within the Village.

Implementation Steps:

- a. Identify potential regional partners.
- b. Determine regional recreational needs.
- c. Identify location for recreational facility
- d. Identify funding sources and/or fee structure.

5) Objective: Encourage cooperative or reciprocal agreements with local religious organizations, and the school district for joint use of recreational facilities.

A community recreation/social center should be constructed in the Village to meet the long-term recreation needs for Village residents of all ages particularly youth and seniors. Possible locations for a community center include AJ Smith Elementary School and the combined Middle and High School.

Action #5-1

Action Needed: Actively seek the opportunity to develop a community center that would serve recreational needs of the Village residents.

Implementation Steps:

- a. Meet with the school, Frontenac Museum, Fire Department, Senior Housing, and other community members to help identify the gaps in recreational services for residents.
- b. Identify possible locations for the recreational based community center.
- c. Solicit information from other municipalities that have community centers tied to their schools to see if that would be an option for the Village to meet their needs. (Cato and Red Creek)

B) GOAL: Develop linkages among the Village's recreational and open space resources, the downtown area, and residential neighborhoods.

1) Objective: Where lacking, add easements, trails, and/or sidewalks to connect residential neighborhoods with recreational facilities, such as a hike/bike path proposal.

The provision of community and recreational services and facilities that are responsive to the needs of the Village's population is a significant component of the Comprehensive Plan. The plan recommends enhancement and expansion of existing recreational facilities. Also recommended is creating linkages and establishing a network of pathways and trails, and maximizing public access to Frontenac Park.

Action #1-1

Action Needed: Develop an overall improvement plan for the Village's pedestrian pathways.

Implementation Steps:

- a. Conduct an inventory of the current pedestrian pathways within the Village.
- b. Determine which of the identified pathways are publicly owned and which remain on private property.
- c. Seek easement for pathways located on private lands.
- d. Develop a maintenance/replacement plan for the sidewalks within the Village.

2) Objective: Develop improved signage to direct visitors to Frontenac Park.

An overall signage, park furniture, and amenities (e.g., lighting, fencing, benches, and tables) program should be developed by the Village so that there is a standard, distinctive look to all recreational facilities, signs, and park furniture in the community. Ordering in larger quantities may also yield economies of scale.

Action #2-1

Action Needed: Improve directional signage to the park, and other recreation areas, from State Route 90.

Implementation Steps:

- a. Develop a design to be used for directional signage that is easy to read.
- b. Identify locations to place signs that allow them to be easily seen without distracting motorists.

C) GOAL: Promote the Village's recreational and open space resources, the downtown area, and residential neighborhoods.

1) Objective: Increase the use of all the Village's recreational facilities through promotion of multi-use and multi-seasonal activities, including winter sports such as ice skating and cross-country skiing.

Action #1-1

Action Needed: Develop promotional materials that emphasize winter recreational activities in order to encourage year round tourism.

Implementation Steps:

- a. Determine which winter activities should be highlighted.
- b. Develop promotional materials to highlight those activities.
- c. Find partners who may also benefit from tourism to help offset costs.

2) Objective: Capitalize on influx of seasonal lakeside residents by attracting them to recreation, retail and cultural opportunities in the Village.

Action #2-1

Action Needed: Encourage seasonal residents to become engaged in the community by letting them know of upcoming events.

Implementation Steps:

- a. Make sure that seasonal residents receive the village newsletter.
- b. Develop a flyer directly targeting seasonal residents.

Chapter 12 - Recommendations for Historical Resources

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) GOAL: Promote the historic and cultural heritage of the Village of Union Springs through the preservation of historically significant structures, sites, landscapes, artifacts, and records.

1) Objective: Identify Historic Resources

The community should conduct a cultural resource survey of potential historic and archaeological resources to determine if they meet State and National Register (S/NR) criteria. The community should coordinate these efforts with the State Historic Preservation Office (SHPO) and seek possible State and Federal funding. Eligible historic resources should be nominated to the S/NR program and included in an expanded or new local historic district, if appropriate. Notable historic and archaeological resources that are not on the S/NR include the following:

- The village center has not been evaluated for S/NR integrity and/or significance. This area contains numerous historically and architecturally notable structures that warrant further study.
- The potential exists for subsurface archaeological remains on Frontenac Island.

Action #1-1

Action Needed: Develop a relationship with the NYS State Historic Preservation Office to find funding to develop an inventory of the historic character of buildings and sites within the Village.

Implementation Steps:

- a. Contact a representative from SHPO to gain their advice and search for funding.
- b. Determine what funding may be available from private donors for historical preservation.
- c. Once funding is secured, hire a historian to study the historical features of the town and summarize the notable characteristics of sites and buildings.
- d. Obtain a copy of the "Historical and Architectural Significance, Union Springs, NY," a 1979 study completed by Cornell University for the NY Division for Historic Preservation.

Action #1-2

Action Needed: Develop a relationship with the NYS State Historic Preservation Office to find funding to hire an archeologist to study Frontenac Island and summarize the history of the site and catalog some of the artifacts from the site.

Implementation Steps:

- a. Contact a representative from SHPO to gain their advice and search for funding.
- b. Determine what funding may be available from private donors for historical preservation.
- c. Once funding is secured, hire an archeologist to study the historical remains on the island and summarize the notable characteristics of site.
- d. Determine the feasibility and cost of displaying artifacts from the island and establishing an exhibit that can be viewed by tourists interested in the island's history.

Action #1-3

Action Needed: Work with regional resources to identify structures that may have been part of the Underground Railroad.

Implementation Steps:

- a. Contact a representative from SHPO to gain their advice and search for funding.
- b. Contact the City of Auburn to find out how they conducted their inventory of structures.

2) Objective: Develop Interpretative Programs

The Village, in conjunction with the Village historian, should work to develop an interpretive program for the Village center. Signage or plaques should be provided at contributing elements within the historic district. A permanent exhibit on the Village is also recommended. The exhibit could be located in Frontenac Park, or along the Scenic Byway. The exhibit could be simple or more complex: it could range from plaques, brochures, and organized exterior walking tours to a permanent photographic installation.

Action #2-1

Action Needed: Establish a location for a permanent exhibit about the history of the Village.

Implementation Steps:

- a. Evaluate locations in the park for suitability.
- b. Look to find someone willing to design the kiosk for low to no cost to the Village
- c. Work with Frontenac Museum, historians and archeologists to determine content of display.
- d. Approach school to look at using small stone building for tourism/cultural center.
- e. Designate a historic district in the Village in order to instill a sense of pride in the community's heritage and to protect the community investment in tourism and related activities.

Action #2-2

Action Needed: Look for funding to update self-tour guides for visitors to learn more about the history of the Village.

Implementation Steps:

- a. Determine the costs involved in updating, preparing and printing brochures/self-tour guides.
- b. Once costs have been determined, look for funding to support the project. The Village may have to conduct a fundraiser to fund the project.
- c. Develop and print guides and brochures.

3) Objective: Conduct cultural resource surveys of potential historic and archaeological resources to determine if they meet State and National Register (S/NR) criteria. Nominate eligible resources to the S/NR program and consider including properties in a historic district, if appropriate.

Action #3-1

Action Needed: Use the historical and archeological information gathered through Objective 1 to determine which, if any, properties should be included in the S/NR.

Implementation Steps:

- a. Review information gathered by historians and archeologists and compare against Appendix C to determine if the property meets the criteria for inclusion in the S/NR.
- b. For properties that meet the criteria for inclusion in the S/NR, meet with the property owners to convey desire to have the property listed and the pros and cons of the listing.
- c. Submit applications to SHPO for the properties that are eligible and the property owners have given consent.

Action #3-2

Action Needed: Review properties that have been deemed eligible for the S/NR to determine if it would be appropriate to create a historic district.

Implementation Steps:

- a. Compile properties submitted for inclusion to the S/NR and properties that are eligible but for various reasons were not submitted.
- b. Look for geographic concentrations of these properties to see if the creation of a district would be appropriate.
- c. Consult SHPO to determine the pros and cons of developing a district.
- d. If it is determined that a district should be formed, contact the Village of Aurora and/or the City of Auburn for information on their district, how it is managed and how it factors in to land use decisions within the Village or City.

4) Objective: Develop an interpretive program for the history of Union Springs based on its most important development influences including the railroad and the lake.

Action #4-1

Action Needed: Include in the documentation of the history of the Village information on historical uses of the Village.

Implementation Steps:

- a. Work with Frontenac Museum to summarize the significant past uses of the Village that had an impact of the Village's development over time.

5) Objective: Utilize the SEQR process and work with the State Historic Preservation Office (SHPO) to fully review and mitigate any adverse impacts resulting from any proposed developments that occur within or substantially contiguous to any historic site or district.

Action #5-1

Action Needed: Ensure that potential impacts to historic and archeological resources are fully considered through the SEQR process.

Implementation Steps:

- a. Check past reports of historic or archeological resources in the Village and review how those resources would be impacted by the proposed project.
- b. Ensure any identified impacts are adequately mitigated.

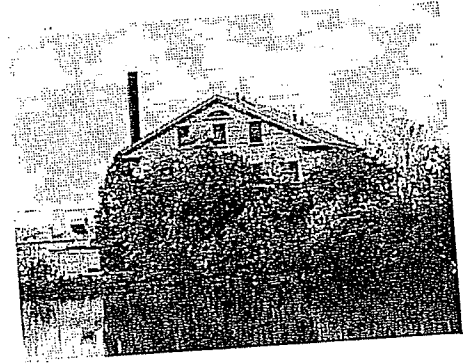
6) Objective: Develop a coordinated plan for the reuse/development of important historically significant vacant or underutilized buildings in the Village.

Action #6-1

Action Needed: Hire a consultant to evaluate current vacant and underutilized historic structures in the Village and recommend possible appropriate uses for the structures.

Implementation Steps:

- a. The Village Board should encourage the renovation of the Stone Mill and pond and work with the owners to evaluate possible reuses for the building.
- b. Other structures in the Village that are either vacant or underutilized should be evaluated.
- c. Once suitable uses have been identified, marketing of the structures for those uses needs to occur to attract suitable business.



Stone Mill by North Pond

7) Objective: Encourage educational programs to promote awareness of local historic and cultural resources and conduct these programs (e.g., public seminars or information meetings) at various notable historic buildings in the Village.

Action #7-1

Action Needed: Work with Frontenac Museum to support a series of historical talks at different sites around the Village.

Implementation Steps:

- a. Determine which sites would create the most interest.
- b. Work with the property owner to showcase the properties and if possible have inside tours of the buildings.

8) Objective: Promote the establishment of walking tours of the exterior of historic locations in and proximate to downtown.

Action #8-1

Action Needed: Create a self-tour guide that would encourage exterior walking tours around the Village to view the abundance of historical and architecturally significant sites within the Village.

Implementation Steps:

- a. Determine the costs involved in preparing and printing self-tour guides.
- b. Once costs have been determined, look for funding to support the project. The Village may have to conduct a fundraiser to fund the project.
- c. Receive permission from property owners to be included in brochure.
- d. Develop and print guides.
- e. Work with the Frontenac Museum to develop program.

Chapter 13 - Recommendations for Economic Development and Tourism

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Preserve and strengthen the economy of the Village of Union Springs and encourage a growing and diversified economic base.

1) **Objective: Develop a Creative Marketing Strategy**

The Village should develop a creative and coordinated marketing strategy. Such a scheme should include updating the Village's website, developing brochures, creating a signage program, and other promotions portraying a positive vision of Union Springs as a place to shop and invest. Separate brochures should be prepared for visitors and potential businesses/investors.

Action #1-1

Action Needed: Develop an overall marketing strategy to market the Village as a whole to potential investors.

Implementation Steps:

- a. Work with the Chamber of Commerce and other agencies to determine what should be included in the marketing strategy.
- b. Develop a brochure for potential buyers and investors.
- c. Update and better utilize the website to showcase particular buildings that are available and what types of businesses are permitted and/or encouraged within the Village.

2) **Objective: Develop Activities for the Youth in the Community**

The more opportunities there are for children and youth in the Village, the greater the potential to attract family-oriented businesses. If youth activities were offered, the additional influx of family activity would provide additional business opportunities for the district.

This strategy is not only important for the present situation, but also for a sustainable future of the Village. If the youth are not readily invited to the Village now, they will likely not consider the Village when they grow-up and decide to settle down.

Action #2-1

Action Needed: A survey was conducted in 2005 to determine the recreational needs of the Village's youth. Follow-up actions need to be taken to make the best use of this information.

Implementation Steps:

- a. Review results of 2005 youth survey.
- b. Determine if the survey needs to be redone with a larger audience, or different questions.
- c. Develop a couple of the more viable recreational objectives based on the survey and present them to the youth of the community for comment.
- d. Identify a funding source for improvements and/or programs.

3) Objective: Promote a Positive Business Climate

The Village should continue to ensure that adequate infrastructure and municipal services are available to meet the needs of businesses. In addition, the Village should actively pursue state and federal funding sources to assist business development. Development activities should be directed to meet comprehensive plan goals and objectives.

Action #3-1

Action Needed: Evaluate the current infrastructure from the perspective of a business to determine what needs to be upgraded and what is sufficient.

Implementation Steps:

- a. Meet with current business owners and the Chamber of Commerce to determine what is lacking in the Village (parking, internet access, etc).
- b. Create a strategy to enhance the infrastructure to better meet the needs of businesses.
- c. Market the infrastructure when marketing the Village to attract new businesses.

4) Objective: Redevelopment Opportunities

In addition to facade upgrades of existing buildings, the plan identifies potential uses for both existing vacant buildings and the infill of vacant properties along the streets for new retail, office and restaurants.

The success of the plan greatly depends upon developing interesting architectural facade and interior treatments for existing and proposed buildings, creating uses for the buildings that will attract the local and tourist trade, imaginative streetscape improvements, and attracting entrepreneurs with a vision that recognizes the potential that the Village offers.

Also important is to create a mix of uses for the buildings that will appeal to both the everyday local shopping and dining needs that are now offered outside the Village and

Action #4-1

Action Needed: Continue to find funding for commercial façade and business improvements to redevelop the historic business district into a more viable commercial center.

Implementation Steps:

- a. Reapply for NY Main Street funding or other funding that would serve the same or similar purpose.
- b. Engage the business owners to look for opportunities to affordably renovate or redevelop their properties.
- c. Consider offering phasing of increased assessments for property owners that improve their property.

B) GOAL: Recognize and promote tourism as one of the Village's key economic development strengths.

1) Objective: Promote a Theme for Union Springs

A recognizable theme or brand should be devised to be associated with the Village. Such an identity should be authentic and, while reflecting the heritage of the community, it should also embrace the Village's future vision. The new theme for Union Springs may focus on a historical event, such as the Underground Railroad, on niche markets such as specialty foods, family entertainment (movie theater, skate park, parades), or unique boutiques not found on Routes 5 and 20. While one theme should be emphasized, the others should not be lost. Historic theme or brand candidates include Union Springs's history as a lake resort area. Other themes are recommended in the Waterfront Villages' Plan.

Action #1-1

Action Needed: Work with the community to develop an overall marketing theme for the Village.

Implementation Steps:

- a. Consider having a contest to engage the community in developing a theme for the Village.
- b. Research the proposed themes to determine if another community is doing it and if so, would it be viable to promote the same idea in Union Springs.
- c. Market the theme through the internet, Chamber of Commerce and other avenues to reach a large audience.

2) Objective: Support and Develop Agri-Tourism Opportunities

The Cayuga Lake Wine Trail, Route 90 Scenic Byway and the Cayuga Lake Scenic Byway offer many beautiful vineyards, farms, and historic barns that distinguish the area's rural character. These assets represent excellent opportunities for agri-tourism connections centered in the Village.

Agri-tourism has many benefits including: contributes to the stability of the agriculture industry; increases the awareness and education of the public; promotes agricultural products; tourists spend money at local businesses; supports and develops cultural tourism opportunities. Ideas include retail outlets for wineries and a farmer's market..

Action #2-1

Action Needed: Look for opportunities to encourage local farmers to participate in local events by direct marketing their goods or by setting up educational demonstrations.

Implementation Steps:

- a. Consult the local farmers to see if any would be willing to participate in Village events.
- b. Allow shops to open that primarily sell direct market goods.

3) Objective: Develop a Tourism Strategy

The Village of Union Springs should work with regional tourism agencies. A successful tourism delivery system contains several components, such as:

- Attractions: These can be natural (proximity to Cayuga Lake); cultural/historic sites and features (historic buildings, museums), man-made (Frontenac Park, North Pond), or created (special events, festivals, sporting events).
- A target market (e.g., families).
- An information and education process and additional advertising.
- Access to the attractions (e.g., bike/hike trail).
- A comprehensive signage program.
- Hospitality and service. (e.g.: inns and restaurants)
- Develop a theme for the Village (e.g: Railroad, Underground Railroad, Quakers, etc.)

Union Springs is well situated to develop its tourism base in terms of location, due to its proximity to Cayuga Lake and its adjoining parks, and other nearby attractions. The community should build on its own uniqueness, while promoting joint ventures with nearby destinations that capitalize on its position on Cayuga Lake. Special events in the business district should focus on the area's unique past and its natural resources (fishing derbies).

An important component of the process must be to generate community support by keeping the local media and educational outreach. When ready (i.e., when Union Springs State official travel guides

Action #3-1

Action Needed: Encourage artists, antique, or other tourist based businesses to open in the historic business district.

Implementation Steps:

- a. Determine which spaces could support these types of tourist-based businesses.
- b. Advertise those properties to business owners looking to expand or relocate.

4) Objective: Develop Union Springs as a Tourist Destination

The Village should work to increase entertainment/cultural opportunities, improve/promote visitor information services, and enhance visual amenities in Union Springs. Consistent and informative signage should be provided in critical locations. In addition, a visitor information center should be considered in the downtown area, possibly in conjunction with the museum and should include restroom facilities. The basic idea is to develop Union Springs as a stop on the State Route 90 Scenic Byway.

In the downtown, the Village should promote and accommodate increases in visitors to the Village by attracting businesses such as full-service restaurants, cafes, galleries, theaters, overnight accommodations, and antique/specialty shops. Anchor attractions for downtown could include live theater or a group of art galleries or antique stores.

Recommendations to enhance the attractiveness of the downtown area for tourists and residents should be implemented. The Village and the business association should also encourage merchants to extend downtown business hours in the summer. In addition, the Village should strengthen its policy on protecting the architectural integrity of its historic resources.

Action #4-1

Action Needed: Work with groups, such as Bass Pro, to integrate the Village with their events.

Implementation Steps:

- a. Look for ways to cross advertise events, i.e. the bass tournament in the summer.
- b. Look for opportunities to provide transportation from the main event to the Village.

Action #4-2

Action Needed: Work with the Frontenac Museum as well as other cultural groups to maintain and enhance programming.

Implementation Steps:

- a. Foster good relationships with cultural groups within the Town.
- b. Provide space at Village properties for cultural events for no or low cost.

Action #4-3

Action Needed: Contact the school to see if it would be possible to use the stone building on their property as a tourism/visitors center.

Implementation Steps:

- a. Contact the school to see what their intentions are for the structure.
- b. Conduct a feasibility study to see if the structure would be suitable and accessible for visitors.
- c. If the stone building is not suitable, or if the school is not interested, compile a list of other structures within the Village that could be considered.

5) Objective: Encourage Appropriate Tourist-Related Development and Events

The Village should ensure that zoning regulations encourage appropriately-scaled and located tourism-related facilities such as full-service restaurants, cafes and ice cream places, overnight accommodations, farmers markets and conference facilities.

The Village should sponsor--in cooperation with the Chamber of Commerce--more evening and weekend events, such as concerts and dance performances, group dance activities, outdoor film screenings, street musicians, jugglers, and other entertainers. Regular events (ie: Wednesday night concerts in Frontenac Park) should be encouraged.

Action #5-1

Action Needed: Create a list of suitable businesses the Village would like to encourage.

Implementation Steps:

- a. Conduct an inventory of the existing businesses in the Village.
- b. Determine what businesses or services are not represented that would compliment existing businesses.

6) Objective: Encourage Bed and Breakfasts

Bed and Breakfasts would add to the ambiance of the Village, promote overnight stays, and utilize some of Union Springs's historic architecture. Special permit criteria for bed and breakfasts should be developed and added to the zoning law.

Action #6-1

Action Needed: Permit bed and breakfast and small lodging facilities to develop within the Village to promote tourism.

Implementation Steps:

- a. Permit Bed and Breakfast and small lodging establishments to develop within the Village by permitting it in the Zoning Law.
- b. Encourage residents to develop lodging based businesses in the Village to encourage longer tourism stays.

7) Objective: Recognize the Connection between Visual Character and Tourism

It is important to protect and enhance the visual character of the Village both for the quality of life for residents and to promote the tourism industry. It is very important to the tourism industry that the aesthetics of development be guided in a way that will enhance the area's character.

Action #7-1

Action Needed: To encourage property owners to maintain their commercial structures, work with the Assessor to develop a program of phasing new assessments for improvements on structures that serve a community wide need.

Implementation Steps:

- a. Work with the assessor to determine if it is feasible to phase in new assessment values.
- b. If phasing of assessments is feasible, develop criterion to determine if improvements will be eligible.

Chapter 14 - Recommendations for Visual and Aesthetic Resources

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Maintain and enhance the visual character of Union Springs by improving the appearance of Scenic State Route 90 and other areas outside the downtown.

1) **Objective:** Roadway improvements, especially on the New York State highway corridors entering the Village, should include street trees, landscaping, and "gateway" signage where appropriate to enhance the visual characteristics of the roadway.

Action #1-1

Action Needed: Work with NYSDOT on future road improvement projects to encourage enhancement of the highway.

Implementation Steps:

- a. Determine what characteristics are desired along the Route 90 corridor.
- b. List all of the desired changes and why the Village would like them changed.
- c. Have this information available to NYSDOT for future use.

2) **Objective:** Promote and support the improvement of the visual quality of the roadway corridors entering the Village. Create a standard entryway design with "gateway" signage and landscaping.

Action #2-1

Action Needed: Develop a universal look to the gateway signage for the three main entrances to the Village to create a welcoming appearance.

Implementation Steps:

- a. Create a similar gateway at the south end of the Village that is currently at the north end of the Village.
- b. Create a two sided sign at the north end that is angled to welcome visitors from Route 90 and Route 326
- c. Create a gateway on Center Street at the Village boundary to greet visitors from the east.

3) Objective: Maintain and enhance important scenic resources in the Village of Union Springs, including Cayuga Lake waterfront, North Pond and other scenic areas.

Action #3-1

Action Needed: Develop parking and viewing areas for scenic areas.

Implementation Steps:

- a. Continue to maintain access to Frontenac Park by maintaining parking lot and access to viewing benches.
- b. Attempt to obtain the property and develop a small parking area and benches to increase use of North Pond.
- c. Develop a maintenance program that keeps the area around North Pond trimmed and attractive. Work with current owners to gain permission for maintenance.
- d. Determine other areas of Village that have important views and develop a maintenance program to maintain those views. Work with property owners to accomplish this.

4) Objective: Consider adopting design guidelines for the Scenic State Route 90 corridor from the plan for the Waterfront Villages to be utilized in the site plan review of any new construction or major renovation projects.

Action #4-1

Action Needed: In order to develop consistency in aesthetic appearance throughout the Village, consider adopting the design guidelines for the Scenic State Route 90 corridor from the plan for the Waterfront Villages.

Implementation Steps:

- a. Have the Village board consider adopting the design guidelines and requiring them for all new construction.
- b. Encourage plan guidelines be used for reconstruction of existing structures.
- c. Look at encouraging use of guidelines by current property owners by phasing increases in assessment due to improvements.

5) Objective: Encourage Site Amenities

In new commercial developments, attractive pedestrian-oriented open spaces, art work and other amenities should be provided at key locations to enhance visual and community character. These amenities should be an integral component of the overall project design. The use of art features adds a unique identification and style to a development and the streetscape. Art features should be appropriate to the architectural, visual, and historic character of the site.

Action #5-1

Action Needed: Determine a type of art or sculpture that would be appropriate for the Village and encourage it to be displayed along the Route 90 corridor. (Example: Painted Horses in Saratoga Springs, Whales of Cape Cod, etc.)

Implementation Steps:

- a. Survey residents to develop a theme for the Village.
- b. Look for ways to portray this theme through art or sculpture throughout the Village, or just along the Route 90 Scenic Byway.
- c. Consider art contests that support the theme for development of the art or sculpture.

6) Objective: Encourage and support, where appropriate, the preservation and adaptive reuse of historic properties throughout the Village of Union Springs, especially the former Stone Mill adjacent to North Pond and properties in the downtown business district.

Action #6-1

Action Needed: Encourage redevelopment of existing historic or architecturally significant properties within the Village.

Implementation Steps:

- a. Develop an inventory of historic and architecturally significant properties within the Village.
- b. Offer incentives to reuse these buildings, such as phasing of increased assessments for the remodeling of the building.
- c. Determine other incentives that could be offered for redevelopment of existing structures.
- d. Look at the feasibility of redeveloping the former Stone Mill adjacent to North Pond.

7) Objective: Where resources and opportunities permit (e.g., during roadway improvements), relocate above ground electric lines underground along the principal highway corridors through the Village, with priority placed on the Main Street corridor.

Action #7-1

Action Needed: Whenever a new project is conducted that involves excavation of the along Route 90, look for opportunities to encourage burying of utilities as part of the project.

Implementation Steps:

- a. Encourage burying of utilities through site plan review of proposed projects.
- b. Consider requiring burial of utilities.

Action #7-2

Action Needed: Require new developments to provide underground electric service where appropriate.

Implementation Steps:

- a. Encourage burying of utilities through site plan review of proposed projects.
- b. Consider requiring burial of utilities.

Chapter 15 - Recommendations for Historic Business District

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) GOAL: Revitalize the Historic Business District.

1) Objective: Sponsor special events, implement streetscape and signage improvements, provide adequate municipal parking, provide timely review of development/redevelopment proposals, coordinate efforts to improve pedestrian and traffic safety, and take other appropriate measures to develop a vibrant downtown area.

In order to effectively attract new businesses to the downtown area, the business district must be promoted as a focal point of interpersonal contact and community growth. Downtown Union Springs must be able to effectively accommodate increases in visitors to the Village as well as satisfy the economic and social needs of permanent residents. The Village of Union Springs, through implementation of this Comprehensive Plan, can reinforce the downtown area as a focal point of personal and community growth.

The Village should promote the downtown as the primary retail and commercial center of the area by: enhancing its sponsorship and support of special events; implementing streetscape and signage improvements recommended in this Plan; providing ample, attractive, and well-signed municipal parking; providing timely review of development/redevelopment proposals; coordinating efforts to improve pedestrian and traffic safety; and aggressively marketing the downtown to attract desired businesses.

There are already several major elements in place in the business district that create a critical mass of activity in downtown Union Springs including: the library, village hall, the post office, and the bank. There are several retail establishments throughout this district that add to the character of the Village. However, there are several types of businesses that could be added to the mix that the Village should be actively promoting space for including a bakery, a dry cleaner, an ice cream shop, various specialty shops and other retailers and services. The Village should aggressively market available space to regional businesses, which are the prime candidates as prospective investors. The Village should keep an up-to-date inventory of available commercial space and its attributes.

Enhance street lighting to provide pedestrian scale and oriented lighting evocative of the turn of the century theme; provide landscaped public parking areas off Scenic Route 90; implement a street tree planting program to enhance the virtually treeless downtown area; add public amenities such as benches, water fountain, and rest rooms; and implement an enhanced facade improvement program.

Action #1-1

Action Needed: Develop a consistent plan for improvements within the Historic Business District.

Implementation Steps:

- a. Determine what activities should be regulated into compliance and those that will be encouraged, but not required.
- b. Develop a process for applicants to have quick review and approval of projects.
- c. Contact NYSDOT to see what permissions would be required to close a section of State Route 90 to have special events take place in the street in front of the Historic Business District.

2) Objective: Retain and increase public uses in downtown Union Springs, including the Post Office and Springport Free Library, in order to maximize local traffic in the business district.

Action #2-1

Action Needed: Encourage use of the post office and library by advertising their availability to new residents and using those facilities to post public notices.

Implementation Steps:

- a. Include information about the post office, museum and library in welcome packets that are distributed to new property owners.
- b. Utilize the post office, museum and library for posting community notices.
- c. Advertise events at the Village Hall that take place at these locations.

3) Objective: Encourage property maintenance in the business district by working with the property owners. Establish a beautification program through the Union Springs Chamber of Commerce to keep downtown Union Springs clean, clutter-free and attractive.

Action #3-1

Action Needed: Develop an overall improvement plan for the Historic Business District.

Implementation Steps:

- a. Develop a theme that can be supported by art, sculpture, or other aesthetic components.
- b. Encourage this theme through contests and competitions.
- c. Provide examples and guidelines of what types of improvements are acceptable.
- d. Have businesses sponsor the improvements (benches, flower pots, etc) that are located outside their business.

4) Objective: Consider a facade program to enhance and better coordinate the appearance of the storefronts in downtown Union Springs.

Action #4-1

Action Needed: Continue to work on the Commercial Façade Grant programs with the Village's Chamber of Commerce.

Implementation Steps:

- a. Consider reapplying for additional Commercial Façade Improvement Funds.
- b. Work with the Village to combine with other village improvement funds in order to accomplish larger projects.

5) Objective: Establish a beautification program for the Historic Business District that would provide and maintain street trees, planters, benches, streetlights, special pavers, and other streetscape elements.

Existing sidewalks along Route 90 would be improved with new curbs and decorative stamped concrete and/or concrete unit pavers added for interest. As part of the sidewalk improvements, the existing overhead electric and telephone wires would be either buried underground or relocated to the rear of the buildings.

Relocating the curbs and widening the sidewalks will allow more room for new street trees that can be planted in generous beds that can also include shrubs and seasonal flowers such as spring bulbs, summer annuals and fall mums. Widened sidewalks will allow areas for decorative benches, trash receptacles and informational signage and kiosks.

Existing "cobra head" type lighting fixtures can be removed and replaced with period lighting fixtures selected to harmonize with the new bench, trash receptacle and sign designs.

The streetscape improvements are planned as an initial phase in the redevelopment process for the downtown that will entice existing businesses to up-grade their building facades to coordinate with the improvements to the sidewalk areas.

Action #5-1

Action Needed: Develop an overall improvement plan for the Historic Business District.

Implementation Steps:

- a. Develop a theme that can be supported by art, sculpture, or other aesthetic components.
- b. Encourage this theme through contests and competitions.
- c. Provide examples and guidelines of what types of improvements are acceptable.
- d. Encourage businesses sponsor the improvements (benches, flower pots, etc) that are located outside

6) Objective: Consider combined advertising program for downtown businesses, including the development of a downtown Union Springs webpage.

Action #6-1

Action Needed: Develop marketing materials that highlight the Historic Business District, its theme and businesses.

Implementation Steps:

- a. Look for grant funds to develop marketing brochures for the Historic Business District.
- b. Develop a kiosk for the downtown area that highlights where the businesses are located.
- c. Develop a webpage for the Historic Business District that highlights businesses and events.

7) Objective: Promote and accommodate an increase in tourism to the Village by attracting businesses such as full-service restaurants, cafes, galleries, overnight accommodations (consider development of a bed-and-breakfast), and antique/specialty shops. Encourage businesses that cater to families (marketing to children will bring the parents too).

Action #7-1

Action Needed: Actively promote the Historic Business District to those looking to develop a desirable business.

Implementation Steps:

- a. Develop a list of the types of businesses need or desired in the Historic Business District.
- b. Create a promotional brochure to entice business owners to locate in Union Springs, highlighting the available properties and storefronts and the overall benefits of the Village.
- c. Dedicate a portion of the website to promotion of available storefronts.
- d. Streamline the Village review process for businesses that are desirable within the Historic Business District.

8) Objective: Develop a visitor information center in the downtown area.

Action #8-1

Action Needed: Create a kiosk near the municipal parking area that would direct visitors to various shops and attractions, and provide information on upcoming events.

Implementation Steps:

- a. Approach BOCES to see if they would be willing to create a kiosk for the Village.

9) Objective: Protect the architectural integrity of downtown Union Springs.

Action #9-1

Action Needed: Encourage uses in the Historic Business District that will maintain the historical and architectural integrity of the Historic Business District.

Implementation Steps:

- a. Adopt Route 90 design guidelines and apply them to activities within the Historic Business District.
- b. Offer incentives for complying with the design guidelines, such as phasing of increased assessments.

10) Objective: Promote exterior walking tours of the cultural and historical features in Union Springs.

Action #10-1

Action Needed: Develop an event schedule that includes exterior walking tours and other free events in order to increase exposure of the Village to visitors and residents.

Implementation Steps:

- a. Coordinate with the Frontenac Museum to design historical walking tours of the exterior of Village structures.
- b. Develop a self-guided walk brochure that can be available at the kiosk for those who wish to tour the Village outside of a guided walk.
- c. Publicize all Village events as a whole, rather than as separate entities.

11) Objective: Relocate Existing Aboveground Utility Lines from Front of Storefronts in the Business District

The Village of Union Springs should relocate electrical and other utility lines in the historic business district to either behind the buildings, or, if economically feasible, underground. This objective would be part of the business district revitalization program. Relocating the utilities would enhance safety and improve the visual appearance of the business district. The Village should seek state or federal grants available for enhancements to arterial roadways. Doing this work concurrently with planned road work will minimize the overall costs of the project, inconvenience to residents, businesses, and shoppers, and the environmental impacts of construction. The utility companies will also need to acquire the necessary easements for relocation.

The Village should apply for grant or loan monies available for infrastructure improvements through the New York State Environmental Facilities Corporation, the U.S. Economic Development Agency
Community Development Block Grant (CDBG) program of the U.S. Department of

Action #11-1

Action Needed: Apply for grants to bury utilities throughout the Historic Business District.

Implementation Steps:

- a. Seek out individuals within the Village who would be willing to write grants.
- b. Contact Cayuga County Department of Planning and Economic Development to see if they would assist in the application for grants for this purpose.

12) Objective: Strengthen connections between the lakefront and downtown.

Action #12-1

Action Needed: Improve sidewalks and pedestrian access between Frontenac Park and the Historic Business District.

Implementation Steps:

- a. Create a sidewalk plan that prioritizes sections of sidewalk for replacement that would encourage pedestrian traffic between the park and the Historic Business District.
- b. Set a portion of the Village's funds aside each year for sidewalk improvement projects.
- c. Look for grants and/or matching funds to increase the amount of work to be accomplished with the Village's funds.

Action #12-2

Action Needed: Improve signage that would encourage users of Frontenac Park to walk to the Historic Business District and local attractions.

Implementation Steps:

- a. Utilize appropriately sized and designed signage to direct park users to the Historic Business District by advertising the shops and businesses located there.

13) Objective: Encourage current home-businesses to relocate to the business district.

Action #13-1

Action Needed: Encourage larger home based-businesses to relocate to the Historic Downtown Business District.

Implementation Steps:

...tion or signage for business that relocate to the

Chapter 16 - Recommendations for Landscaping and Trees

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** To provide shade and traffic calming effects by tree planting along State Route 90 and throughout the Village.

1) **Objective: Provide Landscaping Guidelines in the Site Plan Regulations**

Landscaping adds visual interest, seasonal variety, and a softer texture to development. Well-maintained landscaping along the entire length of the commercial corridor improves the perception of the community's economic health, stability, and pride to visitors doing business in Union Springs or traveling through. A landscape plan should be required as part of the site plan review of any new development proposal in a commercial or industrial district. Developers should provide adequate landscaping to screen views of parking, mechanical equipment, and other negative site features and to provide an amenity to the new development. The plan should identify all existing vegetation to remain and the location, species, and size of all new stock. Sufficiently diverse plant types should always be used to guard against disease and visual monotony. The following guidelines are recommended:

Preserve Existing Features

Existing vegetation can provide a sense of permanence and continuity to a new development. Mature tree stock takes years to reestablish once removed from a site and replacement is difficult and expensive. Uncontrolled removal of trees and vegetation may speed up erosion, sedimentation, and storm water runoff. Sensitive site design can lead to the preservation of mature and attractive trees.

Specific recommendations are as follows:

Existing Vegetation: Recognize existing vegetation in the design process for all new developments. Encourage and include the preservation of mature plant species, hedgerows, and woodlots as a design element in the site's landscape plan.

Tree Protection: When developing a site, make every effort to protect existing tree stock over 8 inches in diameter. Note trees to be saved on the site plans and outline effective measures to protect trees from damage during the construction period.

Provide Buffers

Landscape buffers between different or conflicting land uses are encouraged. Well-designed buffers reduce negative visual impacts, reduce noise, and increase privacy. Landscape buffers include preservation of existing vegetated open space, buffer plantings, berms, and opaque fences. Landscape buffers should also be provided between the public right-of-way and development sites. Buffers and protect on-site activities. Buffer plantings should include a

variety of local species, heights, and widths, and require low maintenance. Their appearance should be natural, with clustering preferred over planting in rows.

Encourage Site Balance

The amount and scale of all landscaping (buffers along the right-of-way and between adjacent uses, parking lot landscaping, etc.) should correspond to the proposed land use. More landscaping is required if the proposed use is not compatible with adjacent land uses or contains site features which need to be screened from the public right-of-way.

Landscape Parking Areas

Planting buffers around parking lots screen parked vehicles and improve views to the site. Planters and curbed planting beds help control traffic movement and parking and contribute to the attractiveness of developments.

Intersperse the paved areas of large parking lots with landscaped medians containing trees and/or other natural growing materials. Planting islands should be large enough to support mature trees. Parking lot landscaping can break up large expanses of parking area and soften the appearance of paved surfaces. In addition, it can provide shade for pedestrians and vehicles.

At grade open parking lots with more than five spaces contain at least 10 percent of the interior area of the parking facility landscaped. This should not include perimeter planting provided for beautification and/or screening requirements. It is further recommended that there be at least one 3-inch diameter tree for every 10 parking spaces.

It is preferable to place off-street parking behind structures and away from the roadway. When parking lots must front a public right-of-way, screening is strongly recommended. Landscaping can be an effective way to screen parking and paved surfaces from view and to soften the appearance of parking areas. Additionally, landscaping provides protection from moving vehicles to pedestrians.

To be effective, landscaping provisions should be specific about the results to be achieved (e.g., "a continuous, unbroken, year-round visual screen within three years of planting"). Alternatives to landscaping, such as walls or opaque fences, can also be allowed where appropriate. Ensure that such walls are attractive, combine them with landscaping or other design enhancements. The planting strip should be at least seven feet wide.

Design for Low Maintenance

Design all landscaping to facilitate ongoing maintenance. When appropriate, low maintenance plants are encouraged. To ensure survival and usefulness of new plant materials in the near future, minimum sizes should be specified. The selection of landscaping materials should be compatible to the Central New York climate, soil types, and water availability.

Action #1-1

Action Needed: Develop and adopt landscape guidelines for new development within the Village.

Implementation Steps:

- a. Work with a landscape architect to develop landscape guidelines that would be appropriate for the Village.
- b. The Village Board should adopt the landscape guidelines and require their use on all new projects.

2) Objective: Implement a Street Tree Program

Street trees should be used to enhance Village streets, particularly Scenic State Route 90 and Chapel Street. Consistently spaced street trees create a visually harmonious edge to the roadway, provide shade, and reduce heat build up within paved areas. Trees and shrubs add variety to the landscape, soften the hard lines of building and parking areas, and distinguish public from private spaces.

Preserve existing and replace dead trees that are within 20 feet of the pavement. New trees should consist of species with broad canopies and 4" minimum caliper trunks. To provide a consistent edge, trees should be planted at 30- to 40-foot intervals in developed sections. Street trees can be planted within the first 10 feet of the front yard, in the lawn area between the sidewalk and the curb. An inventory of trees in the public right-of-way should be conducted to identify existing trees that should be preserved. In addition, an inventory of the trees in all municipal parks and cemeteries should be conducted. The communities should investigate opportunities to utilize students from forestry schools to help conduct the inventory. The results of the tree can be used to establish the initial identification of needs for the street tree replacement program.

Action #2-1

Action Needed: Determine an area of the Village that can be used as a nursery to grow street trees for future plantings.

Implementation Steps:

- a. Determine a suitable location for a nursery.
- b. Determine appropriate species to be raised to planting as street trees.
- c. Look for an opportunity to coordinate with the Union Springs School District for care of the nursery as part of the school curriculum.

Chapter 17 - Recommendations for Signage

A detail of the current conditions within the Village of Union Springs can be found in Chapter 2: Current Conditions.

A) **GOAL:** Create a consistent, effective, and attractive signage program for the Village.

1) **Objective: Strengthen Gateways**

Gateways should provide a sense of welcome and civic pride to a community. Key gateways include entrances to the Village from State Route 90 on the north and south end of the Village. Specific recommendations include:

- Provide visible, consistent gateway signage.
- Provide a sense of place with attractive landscaping and streetscape features including flower beds, street trees, and pedestrian-scale lighting.
- Remove excessive signage from the public right-of-way at gateway locations.

As redevelopment occurs at the intersections, site design should reflect the gateway significance of these locations. Great care should be taken to ensure appropriate site layout, landscaping, and architecture. Site development should incorporate a special corner feature. This could be a landscape feature, a seasonal color planting area, sculpture, or water feature. If applicable to the specific gateway location, provide proper lawn and sidewalk maintenance.

Action #1-1

Action Needed: Develop a universal look to the gateway signage for the three main entrances to the Village to create a welcoming appearance.

Implementation Steps:

- a. Create a similar gateway at the south end of the Village that is currently at the north end of the Village.
- b. Create a two sided sign at the north end that is angled to welcome visitors from Route 90 and Route 326
- c. Create a gateway on Center Street at the Village boundary to greet visitors from the east.

2) Objective: Reduce unnecessary or duplicative roadway signage.

Action #2-1

Action Needed: Minimize the amount of signage by requiring signs to be co-mounted.

Implementation Steps:

- a. Encourage co-mounting of signs where feasible to reduce the number of individual signs
- b. Where co-mounting is not feasible, allow a maximum number of off-premises signs per business.
- c. Require off-premises signs for obsolete business to be removed within 60 days of close of businesses. Exceptions can be granted for seasonal businesses upon request.

3) Objective: Improve the Appearance of Signage

General Recommendations

Signs play a significant role in forming the character of a street corridor. Signs can either contribute to or detract from the visual quality of a public right-of-way. Signage should be managed to avoid visual blight and safety concerns, while providing a fair economic environment. Attractive, coordinated, and well-designed signs have a positive impact on both businesses and the community. Appropriate signs provide a defined identification of individual businesses, stimulate business performance, create a pleasing environment that will attract people, and enhance the image of the community. The Village should enhance regulation of signage by ensuring that they:

- Permit signs of the minimum size appropriate to the use and volume of the facility.
- Light all signs from an outside source.
- Encourage signs to minimize the number of colors.
- Encourage canvas awnings rather than plastic.
- Prohibit billboards.
- Prohibit signs that contain too much information.

Traffic Sign Recommendations

Traffic signs are part of the total streetscape and should be designed accordingly, while still fulfilling mandated size regulations and other requirements. The following guidelines for public sign control are recommended:

Street and highway signs must be clean, simple, easy to read, and appropriately located if they are to be legible for drivers.

The relevant governmental agencies should strive to locate all sign poles at a consistent setback from

When taken together, traffic signs should not create confusion for motorists or negative visual impacts on the surrounding community. Redundant or excessive signs should be removed.

To minimize information overload at intersections, which are decision points for the driver, limit signs to those whose message is critical at the street corner (e.g., directional signs and street name signs).

To keep the number of poles along streets to a minimum, mount signs on light fixture poles wherever possible.

Action #3-1

Action Needed: Develop sign guidelines to be used in conjunction with the zoning law to ensure appropriate signage is used.

Implementation Steps:

- a. Develop sign guidelines and require them to be followed.
- b. Do not grandfather existing signs that are out of compliance. Instead, give a reasonable amount of time for sign owners to bring their signs into compliance.
- c. Look for opportunities for many business owners to order signs or awnings together for a reduced cost and to increase consistency in appearance

Chapter 18 – Implementation Strategies

This section of the Comprehensive Plan provides an overview of what resources are available to implement the actions proposed in the previous chapters.

18.1 MONITORING PROGRAM

It is recommended that the Planning Board continue to oversee Comprehensive Plan implementation. The Planning Board should continue to work with the Village Board, the Zoning Board of Appeals, the Code Enforcement Officer, and other municipal officials during plan implementation. In addition, representatives from Cayuga County, surrounding municipalities, and other interested agencies should be invited to participate in meetings when appropriate.

The Planning Board shall review the Comprehensive Plan, all local land use laws, and implementation progress during its January meeting of every year. The Implementation Matrix located in Appendix A should be reviewed annually by adding a "status" column, in which "Completed," "In Progress," or "No Progress" is indicated. If no progress is indicated, a reason should be provided and discussed. The Comprehensive Plan and Local Laws should be updated and readopted if the Planning Board identifies changes. The Implementation Matrix should then be updated and redistributed to the involved agencies.

18.2 LOCAL AND REGIONAL AGENCIES

There are a number of local and regional agencies that can be called upon to assist in a number of the goals and objectives within this plan. In addition to the Village resources and departments, the following list identifies other regional agencies that are available to assist.

18.2.1 County Agencies

Cayuga County Dept. Of Environmental Health
Attn: Ms. Eileen O' Conner, Director
Cayuga County Office Building
160 Genesee Street
Auburn, New York 13021

Cayuga County Planning Department
Attn: Steve Lynch, Director of Planning
Cayuga County Office Building
160 Genesee Street
Auburn, New York 13021

Cayuga County Soil and Water Conservation District
Attn: Mr. Jim Hotaling, Executive Director
7413 County House Road

Village of Union Springs Comprehensive Plan Implementation Matrix

The location of the Implementation Steps in the Comprehensive Plan can be found using the following reference:
Chapter.Goal.Objective.Action.Implementation Step

The following are the agency acronyms used in this table:

- Village of Union Springs Board of Trustees = VB
- Village of Union Springs Attorney = VA
- Village of Union Springs Clerk = VC
- Village of Union Springs Planning Board = PB
- Village of Union Springs Zoning Board of Appeals = ZBA
- Village of Union Springs Code Enforcement Officer = CEO
- Village of Union Springs Superintendent of Public Works = SPW
- Village of Union Springs Chamber of Commerce = COC
- Union Springs/Springport Parks Commission = PC
- Union Springs Central School District = SD
- Cayuga County Department of Planning and Economic Development = CCPED
- Cornell Cooperative Extension = CCE
- Cayuga County Soil and Water Conservation District = SWCD
- Frontenac Museum = FM
- Town of Springport Town Board = STB
- NYS Dept of Transportation = DOT
- NYS State Historic Preservation Office = SHPO

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
15.A.1.1-1.a	Determine what activities should be regulated into compliance and those that will be encouraged, but not required.	1	VB, PB, ZBA, DOT
15.A.1.1-1.b	Develop a process for applicants to have quick review and approval of projects.	1	VB, PB, ZBA, DOT
15.A.1.1-1.c	Contact NYSDOT to see what permissions would be required to close a section of State Route 90 to have special events take place in the street in front of the Historic Business District.	1	VB, PB, ZBA, DOT
5.A.5.5-1.a	Work with the Village Code Officer to develop a simplistic property maintenance code for landlords.	1	VB, PB, CEO
5.A.5.5-1.d	Recommend periodic inspections of rental , and/or inspections on turn-over to ensure indoor compliance of the Building Code.	1	VB, PB, CEO
3.A.3.3-3.a	Review the Wellhead Protection Plan to determine potential impacts on the Village of implementing the plan.	1	VB, PB
	Amend the Wellhead Protection Plan where appropriate	1	VB, PB

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
3.A.3.3-3.c	Adopt a Wellhead Protection Plan for the Village of Union Springs.	1	VB, PB
3.A.4.4-2.a	Amend local regulations to include buffers zones.	1	VB, PB
3.A.4.4-2.b	Amend regulations to provide guidelines for responsible development in areas adjacent to the wetlands to protect the wetland and minimize flooding to the structures adjacent to wetlands.	1	VB, PB
3.A.5.5-1.a	The Village Board needs to pass a resolution that requires a Type I review for these areas of the Village in order to ensure the potential impacts are being properly evaluated.	1	VB, PB
4.A.1.1-1.a	Modify existing Zoning Law to incorporate the proposed Zoning Districts described in the Comprehensive Plan.	1	VB, PB
4.A.2.2-1.a	Ensure the zoning regulations and site plan provisions regulate lighting type, direction and height.	1	VB, PB
4.A.2.2-1.b	Ensure any future development of these types of businesses have reduced and clearly defined curb cuts.	1	VB, PB
4.A.2.2-1.c	Restrict the use of canopies and signage.	1	VB, PB
4.A.2.2-1.d	Adopt a curb cut standard that would limit the number of curb cuts per property, including, minimum and maximum curb cut standards.	1	VB, PB
4.A.3.3-1.a	Ensure the local regulations address home occupations through special permit.	1	VB, PB
4.A.4.4-1.a	Adopt the design guidelines developed by Yuhas Land Design and Thoma Development for the Scenic Route 90 Waterfront Villages.	1	VB, PB
4.A.5.5-1.a	Review the Adult Entertainment Study conducted by the Village of Margaretville.	1	VB, PB
4.A.5.5-1.b	Determine which recommendations from the Margaretville Study would apply to the Village of Union Springs.	1	VB, PB
4.A.5.5-1.c	Include the recommendation from the Margaretville Study in the guidelines used through the PDD process to regulate Adult Entertainment Businesses.	1	VB, PB
4.A.5.5-2.a 4.A.5.5-3.a	Develop guidelines for review of these proposals under the Planned Development District section of the Village Zoning Law.	1	VB, PB

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
4.A.5.5-3.b	Consideration should be given to the protection of the Indiana Bat, and species on the Federal Endangered Species List, that can be impacted by these types of developments.	1	VB, PB
4.C.1.1-1.a	Set one month each year and task the Planning Board to review the Comprehensive Plan and local regulations for potential updates.	1	VB, PB
4.C.1.1-2.a	Continually review and update Implementation Matrix located in the appendices of this plan.	1	VB, PB
4.C.1.1-3.a	Obtain a copy of the adopted Wellhead Protection Plan for the Town of Springport.	1	VB, PB
4.C.1.1-3.b	Review the Wellhead Protection Plan for appropriateness for use for the Village of Union Springs.	1	VB, PB
4.C.1.1-3.c	Once the Wellhead Protection Plan is completed, the Village Board should consider adoption of the plan.	1	VB, PB
4.C.1.1-3.d	Update other land use regulations where appropriate in order to implement the Well Head Protection Plan.	1	VB, PB
4.C.2.2-1.a	Add expiration times to discretionary permits in order to encourage applications are acted upon in a timely manner.	1	VB, PB
4.C.2.2-1.b	Provide for a three or six month administrative extension, under certain circumstances, prior to making a discretionary permit invalid.	1	VB, PB
4.C.3.3-1.a	Add illustrations or pictures to clarify land use regulations.	1	VB, PB
4.C.3.3-1.b	Expand definitions section of local regulations to ensure that all applicable terms are clearly defined.	1	VB, PB
5.A.1.1-1.a	Permit rental residential housing where appropriate.	1	VB, PB
5.A.1.1-1.b	Permit the expansion of senior housing if needed.	1	VB, PB
5.A.1.1-1.c	Provide provisions within the Zoning Law to exempt access ramps from setback requirements to allow improved access for disabled residents.	1	VB, PB
5.A.2.2-1.a	Incorporate pre-permitting in the areas of the Village that would be suitable for condominium or town houses.	1	VB, PB
5.A.3.3-1.a	Evaluate conservation subdivisions provisions in the Village zoning and subdivision laws.	1	VB, PB

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
6.A.3.3-1.c	Work with the Springport Free Library to place a bus stop in front of the library.	1	VB, PB
6.B.1.1-1.a	Develop a parking lot development plan for the former Astoria Hotel site.	1	VB, PB
6.B.1.1-1.b	Develop a landscaping plan for the former Astoria Hotel parking lot.	1	VB, PB
6.B.1.1-1.c	Develop signage design for the former Astoria Hotel parking lot.	1	VB, PB
6.B.1.1-2.a	Develop appropriate municipal signage both content, size and aesthetically appropriate.	1	VB, PB
6.B.1.1-2.b	Develop appropriate off-site municipal signs and the directional signage.	1	VB, PB
10.A.2.2-1.a	Permit by right uses that would support cultural and entertainment activities within the Village.	1	VB, PB
10.A.2.2-1.b	Provide provisions for Bed & Breakfast establishments within the Village.	1	VB, PB
12.A.5.5-1.a	Check past reports of historic or archeological resources in the Village and review how those resources would be impacted by the proposed project.	1	VB, PB
12.A.5.5-1.b	Ensure any identified impacts are adequately mitigated.	1	VB, PB
12.A.6.6-1.a	The Village Board should encourage the renovation of the Stone Mill and pond and work with the owners to evaluate possible reuses for the building.	1	VB, PB
12.A.6.6-1.b	Other structures in the Village that are either vacant or underutilized should be evaluated.	1	VB, PB
12.A.6.6-1.c	Once suitable uses have been identified, marketing of the structures for those uses needs to occur to attract suitable business.	1	VB, PB
13.B.6.6-1.a	Permit Bed and Breakfast and small lodging establishments to develop within the Village by permitting it in the Zoning Law.	1	VB, PB
13.B.6.6-1.b	Encourage residents to develop lodging based businesses in the Village to encourage longer tourism stays.	1	VB, PB
13.B.7.7-1.a	Work with the assessor to determine if it is feasible to phase in new assessment values.	1	VB, PB
13.B.7.7-1.b	If phasing of assessments is feasible, develop criterion to apply to determine if improvements will be eligible.	1	VB, PB

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
15.A.13.13-1.a	Offer incentives such as increased promotion and signage for business that relocate to the Historic Business District.	1	VB, PB
17.A.2.2-1.a	Encourage co-mounting of signs where feasible to reduce the number of individual signs	1	VB, PB
17.A.2.2-1.b	Where co-mounting is not feasible, allow a maximum number of off-premises signs per business.	1	VB, PB
17.A.2.2-1.c	Require off-premises signs for obsolete business to be removed within 60 days of close of businesses. Exceptions can be granted for seasonal businesses upon request.	1	VB, PB
17.A.3.3-1.a	Develop sign guidelines and require them to be followed.	1	VB, PB
17.A.3.3-1.b	Do not grandfather existing signs that are out of compliance. Instead, give a reasonable amount of time for sign owners to bring their signs into compliance.	1	VB, PB
17.A.3.3-1.c	Look for opportunities for many business owners to order signs or awnings together for a reduced cost and to increase consistency in appearance	1	VB, PB
5.A.5.5-1.b	Develop a list of penalties for violation of the property maintenance code.	1	VB, CEO
3.A.3.3-1.a	Work with Cayuga County Planning and Cayuga County Soil & Water District to develop a stormwater prevention law.	1	VB, CCPED, SWCD
3.A.3.3-1.b	Provide a provision within the stormwater law that triggers stormwater prevention on village scale lots that are less than one acre when the development will be taking place within 500 feet of an identified natural resource of concern.	1	VB, CCPED, SWCD
3.A.3.3-2.a	Review zoning and subdivision laws to ensure consistency with stormwater prevention law.	1	VB, CCPED, SWCD
7.A.3.3-2.a	Consult agencies such as Cayuga County Soil and Water District and Cornell Cooperative Extension of Cayuga County to develop educational materials for Village residents.	1	SPW, CCE, SWCD
7.A.3.3-2.b	Increase resident knowledge of the function of stormdrains and why they shouldn't use them for waste	1	SPW, CCE, SWCD

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
6.A.2.2-1.a	Outline new road system for future residential expansion.	1	SPW
7.A.1.1-1.a	Conduct an inventory of the current waterlines within the Village.	1	SPW
7.A.1.1-1.b	Document the condition of the Village's waterlines.	1	SPW
7.A.1.1-1.c	Detail the planned maintenance for the waterlines.	1	SPW
7.A.1.1-1.d	Identify areas for potential future expansion of the Village's waterlines.	1	SPW
7.A.2.2-1.a	Conduct an inventory of the current sanitary sewer system within the Village.	1	SPW
7.A.2.2-1.b	Document the condition of sanitary sewer system lines.	1	SPW
7.A.2.2-1.c	Detail the planned maintenance for sanitary sewer system lines.	1	SPW
7.A.2.2-1.d	Identify areas for potential future sewer system expansion.	1	SPW
7.A.2.2-2.a	Conduct an assessment of the current sanitary sewer treatment facility's limitations.	1	SPW
7.A.2.2-2.b	Determine the most cost effective way of expanding the current sewer system facility.	1	SPW
7.A.2.2-2.c	Develop separate expansion plans depending on the extent of sewer system upgrade needed.	1	SPW
7.A.3.3-1.a	Conduct an inventory of the current storm drainage system.	1	SPW
7.A.3.3-1.b	Identify areas of the stormwater system that need repair, cleaning and dredging.	1	SPW
7.A.3.3-1.c	Identify areas that need additional storm drains.	1	PC
11.A.2.2-1.a	Contact the groups within the Town that offer social and recreational opportunities for the Village residents.	1	PC
11.A.2.2-1.b	From these groups obtain a schedule of upcoming programs, who they are targeted towards and when their offered.	1	PC
11.A.2.2-1.c	Compile this information in one location for easy access for Village residents.	1	PC
14.A.1.1-1.a	Determine what characteristics are desired along the Route 90 corridor.	1	PB, DOT, SPW
14.A.1.1-1.b	List all of the desired changes and why the Village would like them changed.	1	PB, DOT, SPW
	... this information available to NYSDOT for future	1	PB, DOT, SPW

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
5.A.5.5-1.c	Encourage the Code Enforcement Officer to consistently enforce the real property maintenance code.	1	CEO
9.A.2.2-1.a	Develop a brochure of local agencies and their contact information.	2	VC
9.A.2.2-1.b	Invite representatives to write articles for a local newsletter highlighting their services.	2	VC
8.B.2.2-2.a	Meet with the Village of Cayuga and the Village of Aurora to determine need and available funding for police protection.	2	VB, V/Cayuga, V/Aurora
8.B.2.2-2.b	Consult the Cayuga County Sheriff's office to determine what times they receive the most calls and any advice on the process they may wish to share.	2	VB, V/Cayuga, V/Aurora
8.B.2.2-2.c	Look for grant funding that may be available to support additional police protection in the Villages.	2	VB, V/Cayuga, V/Aurora
8.B.2.2-2.d	Request a Request for Proposal (RFP's) from private firms to determine the availability and quality of services available.	2	VB, V/Cayuga, V/Aurora
9.A.1.1-1.a	Develop a display area for information of interest to Village residents.	2	VB, VC, PC, FM
9.A.1.1-1.b	Have a local bulletin board within the Village to post information of interest to local residents.	2	VB, VC, PC, FM
7.A.6.6-1.a	Consult the Village attorney for the best way to proceed in developing intermunicipal agreements for infrastructure expansion into the Town.	2	VB, VA
6.A.3.3-1.a	Contact Centro to determine what would need to be done to encourage more bus stops within the Village.	2	VB, V/Aurora, V/Cayuga
6.A.3.3-1.b	Work with the Villages of Cayuga and Aurora to see if there is demand for a combined bus route including all three Villages to provide public transportation to Auburn.	2	VB, V/Aurora, V/Cayuga
8.B.2.2-1.b	Meet with municipalities to determine the community and recreational needs and capacity to provide for those needs.	2	VB, STB, V/Cayuga, V/Aurora
8.B.2.2-1.a	Meet with community groups to determine the community and recreational needs.	2	VB, STB, Community Groups
8.B.2.2-1.c	Meet with School District to determine the school's	2	VB, STB, SD

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
8.A.2.2-1.a	Work with the Village departments to determine their needs for a Capitol Plan.	2	VB, SPW, PC
8.A.2.2-1.b	Project future needs for the Village departments	2	VB, SPW, PC
8.A.2.2-1.c	Develop a capital plan that will detail the current and future needs and evaluate possible options for future growth.	2	VB, SPW, PC
15.A.12.12-1.c	Look for grants and/or matching funds to increase the amount of work to be accomplished with the Village's funds.	2	VB, SPW, COC
7.A.5.5-1.a	Meet with the Town of Springport to determine their future infrastructure expansion needs.	2	VB, SPW
7.A.5.5-1.b	Determine if the Village of Union Springs will need to provide any services for the Town's infrastructure expansion.	2	VB, SPW
7.A.7.7-1.a	Evaluate the current water and sewer fee structure to see if changes are needed to the fee structure.	2	VB, SPW
7.A.7.7-1.b	If needed, research other municipal systems to see if there are ways to improve the water and sewer fee structure.	2	VB, SPW
8.B.1.1-1.a	Determine what resources the Village has that it could share with the surrounding municipalities, and what the Village may need from them.	2	VB, SPW
8.B.1.1-1.b	Meet with the Town of Springport to determine if there are any opportunities for shared resources.	2	VB, SPW
8.B.1.1-1.c	Develop a model intermunicipal agreement to be used when the opportunity to share resources is available.	2	VB, SPW
15.A.12.12-1.b	Set a portion of the Village's funds aside each year for sidewalk improvement projects.	2	VB, SPW
11.B.1.1-1.a	Conduct an inventory of the current pedestrian pathways within the Village.	2	VB, PB, SPW
11.B.1.1-1.b	Determine which of the identified pathways are publicly owned and which remain on private property.	2	VB, PB, SPW
11.B.1.1-1.c	Seek easement for pedestrian pathways located on private lands.	2	VB, PB, SPW
11.B.1.1-1.d	Develop a maintenance/replacement plan for the sidewalks within the Village.	2	VB, PB, SPW
11.A.1.1-1.a	Develop a plan for the park by working with a landscape	2	VB, PB, PC

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
11.A.1.1-1.c	Develop a maintenance schedule for the park along with an estimated budget.	2	VB, PB, PC
11.A.1.1-1.d	Determine a funding source for park improvements.	2	VB, PB, PC
11.A.3.3-1.b	Determine if the youth survey needs to be redone with a larger audience, or different questions.	2	VB, PB, PC
13.A.2.2-1.b	Determine if the youth survey needs to be redone with a larger audience, or different questions.	2	VB, PB, COC, FM
13.B.4.4-2.a	Foster good relationships with cultural groups within the Town.	2	VB, PB, COC, FM
13.B.4.4-2.b	Provide space at Village properties for cultural events for no or low cost.	2	VB, PB, COC
13.A.1.1-1.a	Work with the Chamber of Commerce and other agencies to determine what should be included in the marketing strategy.	2	VB, PB, COC
13.A.1.1-1.b	Develop a brochure for potential buyers and investors.	2	VB, PB, COC
13.A.1.1-1.c	Update and better utilize the website to showcase particular buildings that are available and what types of businesses are permitted and/or encouraged within the Village.	2	VB, PB, COC
13.B.1.1-1.a	Consider having a contest to engage the community in developing a theme for the Village.	2	VB, PB, COC
13.B.1.1-1.b	Research the proposed themes to determine if another community is doing it and if so, would it be viable to promote the same idea in Union Springs.	2	VB, PB, COC
13.B.1.1-1.c	Market the theme through the internet, chamber of commerce and other avenues to reach a large audience.	2	VB, PB, COC
13.B.2.2-1.a	Consult the local farmers to see if any would be willing to participate in Village events.	2	VB, PB, COC
13.B.2.2-1.b	Allow shops to open that primarily sell direct market goods.	2	VB, PB, COC
13.B.3.3-1.a	Determine which spaces could support these types of tourist-based businesses.	2	VB, PB, COC
13.B.3.3-1.b	Advertise those properties to business owners looking to expand or relocate.	2	VB, PB, COC
13.B.4.4-1.a	Look for ways to cross advertise events, i.e. the bass tournament in the summer.	2	VB, PB, COC
13.B.4.4-1.b	Look for opportunities to provide transportation from the main event to the Village.	2	VB, PB, COC
13.B.5.5-1.a	Conduct an inventory of the existing businesses in the Village.	2	VB, PB, COC

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
13.B.5.5-1.b	Determine what businesses or services are not represented that would compliment existing businesses.	2	VB, PB, COC
14.A.2.2-1.c 17.A.1.1-1.c	Create a gateway on Center Street at the Village boundary to greet visitors from the east.	2	VB, PB, Community Groups Senior Group
6.C.2.2-1.d	Identify funding sources to construct sidewalks.	2	VB, PB
13.A.3.3-1.a	Meet with current business owners and the Chamber of Commerce to determine what is lacking in the Village (parking, internet access, etc).	2	VB, PB
13.A.3.3-1.b	Create a strategy to enhance the infrastructure to better meet the needs of business.	2	VB, PB
13.A.3.3-1.c	Market the infrastructure when marketing the Village to attract new businesses.	2	VB, PB
14.A.4.4-1.a	Have the Village board adopt the guidelines and require them for all new construction.	2	VB, PB
14.A.4.4-1.b	Encourage plan guidelines be used to reconstruction to existing structures.	2	VB, PB
14.A.4.4-1.c	Look at encouraging use of guidelines by current property owners by phasing increases in assessment due to improvements.	2	VB, PB
15.A.12.12-2.a	Utilize appropriately sized and designed signage to direct park users to the Historic Business District by advertising the shops and businesses located there.	2	VB, PB
16.A.1.1-1.a	Work with a landscape architect to develop landscape guidelines that would be appropriate for the Village.	2	VB, PB
16.A.1.1-1.b	The Village Board should adopt the landscape guidelines and require their use on all new projects.	2	VB, PB
13.B.4.4-3.a	Contact the school to see what their intentions are for the stone building.	2	VB, FM, SD
13.B.4.4-3.b	Conduct a feasibility study to see if the stone building would be suitable and accessible for visitors.	2	VB, FM, SD
13.B.4.4-3.c	If the stone building is not suitable, or if the school is not interested, compile a list of other structures within the Village that could be considered.	2	VB, FM, SD
11.B.2.2-1.a	Develop a design to be used for directional signage that is easy to read.	2	VB, DOT, PC
11.B.2.2-1.b	Identify locations to place signs that allow them to be easily seen without distracting motorists.	2	VB, DOT, PC

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14.A.2.2-1.a 17.A.1.1-1.a	Create a similar gateway at the south end of the Village that is currently at the north end of the Village.	2	VB, DOT, Community Groups Senior Groups
14.A.2.2-1.b 17.A.1.1-1.b	Create a two sided sign at the north end that is angled to welcome visitors from Route 90 and Route 326	2	VB, DOT, Community Groups Senior Groups
13.A.4.4-1.a	Reapply for NY Main Street funding or other funding that would serve the same or similar purpose.	2	VB, COC
13.A.4.4-1.b	Engage the business owners to look for opportunities to affordably renovate or redevelop their properties.	2	VB, COC
5.A.4.4-1.a	Develop an inventory of underutilized structures within the Village and determine which would be suitable for conversion to affordable senior housing.	2	VB, CEO
5.A.4.4-1.b	Make a determination of what work would be involved to make the conversions of underutilized buildings to senior housing.	2	VB, CEO
5.A.4.4-1.c	Determine funding sources to modify and rehabilitate the underutilized structures to senior housing.	2	VB, CEO
15.A.11.11-1.a	Seek out individuals within the Village who would be willing to write grants.	2	VB, CCPED
15.A.11.11-1.b	Contact Cayuga County Dept of Planning and Economic Development to see if they would assist in the application for grants for this purpose.	2	VB, CCPED
13.A.4.4-1.c	Consider offering phasing of increased assessments for property owners that improve their property.	2	VB, Assessor
15.A.9.9-1.a	Adopt Route 90 design guidelines and require them to comply with for activities within the Historic Business District.	2	VB, Assessor
15.A.9.9-1.b	Offer incentives for complying with the design guidelines, such as phasing of increased assessments.	2	VB, Assessor
8.A.1.1-1.a	Compile a list of the agencies that would be aware of available funding to offset Village costs for Village services.	2	VB
8.A.1.1-1.b	Have the Village added to agency e-mail notification lists for funding applications.	2	VB
8.A.1.1-1.c	Evaluate resources for grant writing.	2	VB
	Board of Trustees should consider establishing a	2	VB

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
9.A.2.2-2.b	If created, the Village Board should establish duties and procedures for the Citizen's Advisory Board activities.	2	VB
15.A.4.4-1.a	Consider reapplying for additional Commercial Façade Improvement Funds.	2	VB
15.A.4.4-1.b	Work with the Village to combine with other village improvement funds in order to accomplish larger projects.	2	VB
6.C.1.1-1.b	Inventory location of crosswalks.	2	SPW, DOT
6.C.1.1-1.a	Inventory location and condition of existing sidewalks.	2	SPW
6.C.2.2-1.a	Outline locations for new sidewalks.	2	SPW
6.C.2.2-1.b	Outline locations for sidewalk replacement.	2	SPW
6.C.2.2-1.c	Outline locations for new crosswalks.	2	SPW
7.A.4.4-1.a	Map the location of all hydrants within the Village.	2	SPW
7.A.4.4-1.b	Investigate insurance programs that reduce rates for classification of hydrants.	2	SPW
7.A.4.4-1.c	Develop maintenance schedule for the hydrants within the Village.	2	SPW
15.A.12.12-1.a	Create a sidewalk plan that prioritizes sections of sidewalk for replacement that would encourage pedestrian traffic between the park and the Historic Business District.	2	SPW
12.A.1.1-1.b	Determine what funding may be available from private donors for historical preservation.	2	SHPO, FM, V/Historian
12.A.1.1-2.b		2	SHPO, FM, V/Historian
12.A.1.1-1.d	Obtain a copy of the "Historical and Architectural Significance, Union Springs, NY," a 1979 study completed by Cornell for the NY Division for Historic Preservation.	2	PB, SPW, DOT
6.C.1.1-1.c	Look at pedestrian patterns to determine if there are areas in need to sidewalks or crosswalks.	2	PB, SPW, DOT
6.C.1.1-1.d	Evaluate feasibility of adding a pedestrian crossing light that is button triggered.	2	PB, PC
11.A.3.3-1.a	Review results of 2005 youth survey.	2	PB, PC
13.A.2.2-1.a		2	PB, PC
11.A.3.3-1.c	Develop a couple of the more viable recreational objectives based on the survey and present them to the youth of the community for comment	2	PB, PC
11.A.3.3-1.d	Identify a funding source for youth recreational improvements and/or programs.	2	PB, COC

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
15.A.6.6-1.b	Develop a kiosk for the downtown area that highlights where the businesses are located.	2	PB, COC
15.A.6.6-1.c	Develop a webpage for the Historic Business District that highlights businesses and events.	2	PB, COC
15.A.7.7-1.a	Develop a list of the types of businesses need or desired in the Historic Business District.	2	PB, COC
15.A.7.7-1.b	Create a promotional brochure to entice business owners to locate in Union Springs. Highlight the available properties and storefronts and the overall benefits of the Village.	2	PB, COC
15.A.7.7-1.c	Dedicate a portion of the website to promotion of available storefronts.	2	PB, COC
15.A.7.7-1.d	Streamline the Village review process for businesses that are desirable within the Historic Business District.	2	PB, COC
15.A.8.8-1.a	Approach BOCES to see if they would be willing to create a kiosk for the Village.	2	PB, BOCES
4.B.1.1-1.b	Research possible historic significance of former structures within and adjacent to North Pond.	2	PB
8.B.2.2-3.a	Meet with the School Board members or staff to gain information on future enrollment predictions and the student capacity of the school district.	2	PB
8.B.2.2-3.b	Once obtained, consider this information in planning activities that would involve a potential significant increase in the student population of the Village.	2	PB
13.A.2.2-1.c	Develop a couple of the more viable recreational objectives based on the survey and present them to the youth of the community for comment	2	PB
13.A.2.2-1.d	Identify a funding source for youth improvements and/or youth programs.	2	PB
15.A.10.10-1.c	Publicize all Village events as a whole, rather than as separate entities.	2	FM, COC, VB
6.C.3.3-1.a	Develop an event or walking tour to encourage pedestrian activity within the Village.	2	FM, COC
12.A.7.7-1.a	Determine which sites would create the most interest.	2	FM, COC
12.A.7.7-1.b	Work with the property owner to showcase the properties and if possible have inside tours of the buildings.	2	FM, COC
	Coordinate with the Frontenac Museum to design	2	FM, COC

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
15.A.10.10-1.b	Develop a self-guided walk brochure that can be available at the kiosk for those who wish to tour the Village outside of a guided walk.	2	FM, COC
6.C.2.2-1.e	Contact NYS DOT to determine procedure for adding crosswalks.	2	DOT
11.C.1.1-1.a	Determine which winter activities should be highlighted.	3	VB, PC, COC
11.C.1.1-1.b	Develop promotional materials to highlight winter recreation activities.	3	VB, PC, COC
11.C.1.1-1.c	Find partners who may also benefit from tourism to help offset costs.	3	VB, PC, COC
11.A.4.4-1.a	Identify potential regional partners for a regional recreation center.	3	VB, PB, STB, SD
11.A.4.4-1.b	Determine regional recreational needs.	3	VB, PB, STB, SD
11.A.4.4-1.c	Identify location for a regional recreational facility	3	VB, PB, STB, SD
11.A.4.4-1.d	Identify funding sources and/or fee structure for a regional recreation center.	3	VB, PB, STB, SD
11.A.5.5-1.a	Meet with the school, Frontenac Museum, Fire Department, Senior Housing, and other community members to help identify the gaps in recreational services for residents.	3	VB, PB, STB, SD
11.A.5.5-1.b	Identify possible locations for the recreational based community center.	3	VB, PB, STB, SD
11.A.5.5-1.c	Solicit information from other municipalities that have community centers tied to their schools to see if that would be an option for the Village to meet their needs. (Cato and Red Creek)	3	VB, PB, STB, SD
14.A.3.3-1.a	Continue to maintain access to Frontenac Park by maintaining parking lot and access to viewing benches.	3	VB, FM, PC
14.A.3.3-1.b	Attempt to obtain the property and develop a small parking area and benches to increase use of North Pond.	3	VB, FM, PC
14.A.3.3-1.c	Develop a maintenance program that keeps the area around North Pond trimmed and attractive. Work with current owners to gain permission for maintenance.	3	VB, FM, PC
14.A.3.3-1.d	Determine other areas of Village that have important views and develop maintenance program to maintain those views. Work with property owners to accomplish	3	VB, FM, PC

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<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
12.A.2.2-2.a 12.A.8.8-1.a	Determine the costs involved in preparing and printing self-tour guides.	3	VB, FM, COC, V/Historian
12.A.8.8-1.c	Receive permission from property owners to be included in brochure.	3	VB, FM, COC, V/Historian
12.A.8.8-1.d	Develop and print guides.	3	VB, FM, COC, V/Historian
12.A.8.8-1.e	Work with the Frontenac Museum to develop program.	3	VB, FM, COC, V/Historian
12.A.2.2-2.b 12.A.8.8-1.b	Once costs have been determined, look for funding to support the develop of a self tour. The Village may have to conduct a fundraiser to fund the project.	3	VB, COC, FM, V/Historian
12.A.2.2-2.c	Develop and print guides and brochures for the self tour.	3	VB, COC, FM, V/Historian
14.A.5.5-1.a	Survey residents to develop a theme for the Village.	3	VB, COC
14.A.5.5-1.b	Look for ways to portray this theme through art or sculpture throughout the Village, or just along the Route 90 Scenic Byway.	3	VB, COC
14.A.5.5-1.c	Consider art contests that support the theme for development of the art or sculpture.	3	VB, COC
14.A.6.6-1.b	Offer incentives to reuse these buildings, such as phasing in increased assessments for the remodeling of the building.	3	VB, Assessor
6.B.2.2-1.a	Inventory the amount of parking within the Village.	3	SPW
12.A.1.1-1.a 12.A.1.1-2.a 12.A.1.1-3.a	Contact a representative from SHPO to gain their advice and search for funding.	3	SHPO, FM, V/Historian
12.A.1.1-1.c	Once funding is secured, hire a historian to study the historical features of the town and summarize the notable characteristics of sites and buildings.	3	SHPO, FM, V/Historian
12.A.1.1-2.c	Once funding is secured, hire an archeologist to study the historical remains on the island and summarize the notable characteristics of site.	3	SHPO, FM, V/Historian
12.A.1.1-2.d	Determine the feasibility and cost of displaying artifacts from the island and establishing an exhibit that can be viewed by tourists to gain a better understanding of the island's history.	3	SHPO, FM, V/Historian
12.A.2.2-1.a	Evaluate locations in the park for suitability for a permanent history exhibit.	3	SHPO, FM, V/Historian
12.A.2.2-1.b	Look to find someone willing to design the history exhibit for low to no cost to the Village.	3	SHPO, FM, V/Historian

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
12.A.2.2-1.c	Work with Frontenac Museum, historians and archeologists to determine content of history display.	3	SHPO, FM, V/Historian
12.A.2.2-1.d	Approach school to look at using small stone building for tourism/cultural center.	3	SHPO, FM, V/Historian
12.A.2.2-1.e	Designate a historic district in the Village in order to instill a sense of pride in the community's heritage and to protect the community investment in tourism and related activities.	3	SHPO, FM, V/Historian
16.A.2.2-1.a	Determine a suitable location for a nursery.	3	SD, CCE, SWCD, Cornell
16.A.2.2-1.b	Determine appropriate species to be raised to planting as street trees.	3	SD, CCE, SWCD, Cornell
16.A.2.2-1.c	Look for an opportunity to coordinate with the Union Springs School District for care of the nursery as part of the school curriculum.	3	SD, CCE, SWCD, Cornell
12.A.3.3-1.a	Review information gathered by historians and archeologists and compare against Appendix C to determine if the property meets the criteria for inclusion in the S/NR.	3	PB, V/Historian
12.A.3.3-1.b	For properties that meet the criteria for inclusion in the S/NR, meet with the property owners to convey desire to have the property listed and the pros and cons of the listing.	3	PB, V/Historian
12.A.3.3-1.c	Submit applications to SHPO for the properties that are eligible and the property owners have given consent.	3	PB, V/Historian
12.A.3.3-2.a	Compile properties submitted for inclusion to the S/NR and properties that are eligible but for various reasons were not submitted.	3	PB, V/Historian
12.A.3.3-2.b	Look for geographic concentrations of historic properties to see if the creation of a district would be appropriate.	3	PB, V/Historian
12.A.3.3-2.c	Consult SHPO to determine the pros and cons of developing a district.	3	PB, V/Historian
12.A.3.3-2.d	If it is determined that a district should be formed, contact the Village of Aurora and/or the City of Auburn for information on their district, how it is managed and how it factors in to land use decisions within the Village and/or City.	3	PB, V/Historian
14.A.6.6-1.a	Develop an inventory of historic and architecturally	3	PB, FM, V/Historian

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
15.A.3.3-1.a 15.A.5.5-1.a	Develop a theme that can be supported by art, sculpture, or other aesthetic components.	3	PB, FM, V/Historian
15.A.3.3-1.b 15.A.5.5-1.b	Encourage this theme through contests and competitions.	3	PB, FM, V/Historian
15.A.3.3-1.c 15.A.5.5-1.c	Provide examples and guidelines of what types of improvements are acceptable.	3	PB, FM, V/Historian
15.A.3.3-1.d 15.A.5.5-1.d	Have businesses sponsor the improvements (benches, flower pots, etc) that are located outside their business.	3	PB, FM, V/Historian
12.A.1.1-3.b	Contact the City of Auburn to find out how they conducted their inventory of historic structures.	3	PB, City of Auburn
6.B.2.2-1.b	Identify ownership of the areas behind the Cayuga St. buildings.	3	PB
6.B.2.2-1.c	Investigate options for easements for the Village to use the area behind the Cayuga Street buildings for parking to support business owners.	3	PB
14.A.6.6-1.c	Determine other incentives that could be offered for redevelopment of existing structures.	3	PB
14.A.6.6-1.d	Look at the feasibility of redeveloping the former Stone Mill adjacent to North Pond.	3	PB
12.A.4.4-1.a	Work with Frontenac Museum to summarize the significant past uses of the Village that had an impact of the Village's development over time.	3	FM, V/Historian
10.A.1.1-1.a	Evaluate venues within the Village for possibility of use for cultural activities. Some possible locations would include Frontenac Park, Frontenac Museum, Springport Library and the property owned by the Seventh Day Adventists.	3	FM, COC, PC
10.A.1.1-1.b	For each property identified, contact the property owner to determine what types of cultural events they would consider hosting.	3	FM, COC, PC
10.A.1.1-1.c	Develop temporary signage to direct visitors to the location of local event.	3	FM, COC, PC
10.A.1.1-1.d	Develop guided walks at North Pond that will be lead by a guide or docent, focusing on bird identification and general natural history of the site.	3	FM, COC, PC
10.A.1.1-1.e	Advertise and promote local events.	3	FM, COC, PC
10.A.1.1-1.f	Provide self-interpretive signage at Frontenac Park and at North and South Ponds for winter birds.	3	FM, COC, PC
10.A.1.1-2.a	Meet with Bass Pro to see if there is interest in co-	3	COC

<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
10.A.1.1-2.b	Meet with the Chamber of Commerce to see if there is interest in co-sponsoring a shuttle to the Village.	3	COC
10.A.1.1-2.c	Consider using an option fee from area business that would benefit from the shuttle to pay for a portion of the cost.	3	COC
10.A.1.1-2.d	Contact the City of Auburn to see how they have funded the "Downtown" shuttle to see if their program may be used as a model.	3	COC
4.C.4.4-1.b	Priority should be given to planning and zoning board members to help to ensure that project reviews minimize and mitigate land use impacts.	Continuous	VC, PB, ZBA
3.A.2.2-1.a	Coordinate with Cayuga County Planning and Cayuga County Cooperative Extension to encourage responsible disposal of hazardous chemicals, and other items of environmental concern.	Continuous	VC, CCPED, CCE
3.A.4.4-1.a	Have a wetland map available within the Village office for consultation when needed.	Continuous	VC, CCPED
3.A.4.4-1.b	Have a summary of the applicable regulations that may be triggered by a project proposed adjacent to a wetland within the Village	Continuous	VC, CCPED
4.C.4.4-1.a	Distribute notifications received of upcoming training opportunities.	Continuous	VC
8.A.3.3-1.a	Add .pdf versions of all the Village regulations to the website.	Continuous	VC
8.A.3.3-1.b	Add current minutes to the website for each of the Village boards.	Continuous	VC
8.A.3.3-1.c	Add current water reports to website.	Continuous	VC
8.A.3.3-1.d	Find a member of the community to volunteer to update the website on a regular basis.	Continuous	VC
11.C.2.2-1.a	Make sure that seasonal residents receive village newsletter.	Continuous	VC
11.C.2.2-1.b	Develop flyer directly targeting seasonal residents to make them aware of community events.	Continuous	VC
15.A.2.2-1.a	Include information about the post office, museum and library in any welcome packets that are distributed to new property owners.	Continuous	VC
15.A.2.2-1.b	Utilize the post office, museum and library for posting community notices.	Continuous	VC
15.A.2.2-1.c	Advertise events at the Village hall that take place at	Continuous	VC

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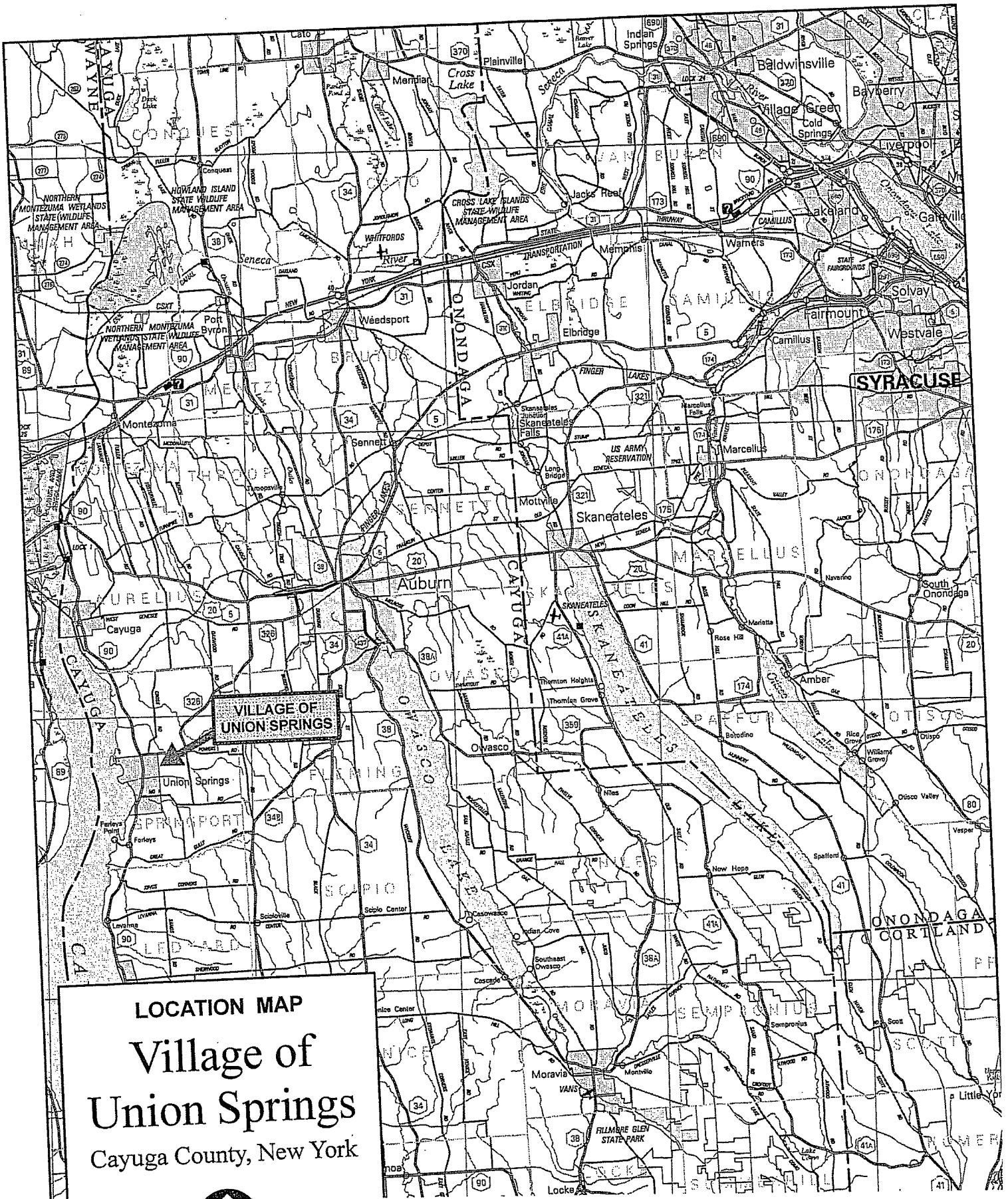
<u>Location in Plan</u>	<u>Implementation Step</u>	<u>Time Frame (Years)</u>	<u>Agency Involvement</u>
4.C.5.5-1.c	The Village Board, Planning Board, Zoning Board of Appeals, and the clerk should all have an opportunity to evaluate the code officer and submit their findings to the Village Board for review.	Continuous	VB, VC, PB, ZBA
3.A.1.1-1.a 4.B.1.1.1-a	Continue negotiations with current owners to acquire North Pond and if possible the Stone Mill adjacent to the pond.	Continuous	VB, PB, CCPED
14.A.7.7-1.a 14.A.7.7-2.a	Encourage burying of utilities through site plan review of proposed projects.	Continuous	VB, PB
14.A.7.7-1.b 14.A.7.7-2.b	Consider requiring burial of utilities.	Continuous	VB, PB
3.A.2.2-2.a	Continue to provide dog stations within the park.	Continuous	VB, CCE
3.A.2.2-2.b	Increase the number of dog stations, especially to the south, which is most heavily used by pet owners.	Continuous	VB, CCE
3.A.2.2-2.c	Increase signage to make users of park aware of the dog stations	Continuous	VB, CCE
3.A.2.2-2.d	Add dog stations at new parks where pets will be permitted in the future.	Continuous	VB, CCE
4.C.4.4-1.c	The Village Board should try and fund the attendance of these trainings where practical.	Continuous	VB
4.C.5.5-1.a	When the opportunity arrives to appoint a new code officer, the Village Board should conduct interviews and check references to ensure the caliber of the applicant.	Continuous	VB
4.C.5.5-1.b	The code officer should be evaluated on a yearly basis and/or before the renewal of a contract for code enforcement services.	Continuous	VB
6.A.1.1-1.a	Conduct an inventory of the current roads within the Village.	Continuous	SPW
6.A.1.1-1.c	Detail the planned maintenance for Village roadways.	Continuous	SPW
3.A.4.4-2.c	Consult with Cayuga County Soil & Water District on projects that may impact wetlands within the Village.	Continuous	CEO, SWCD

Village of Union Springs Comprehensive Plan
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Appendix B

Appendix B
Figures and Tables

Figure 1



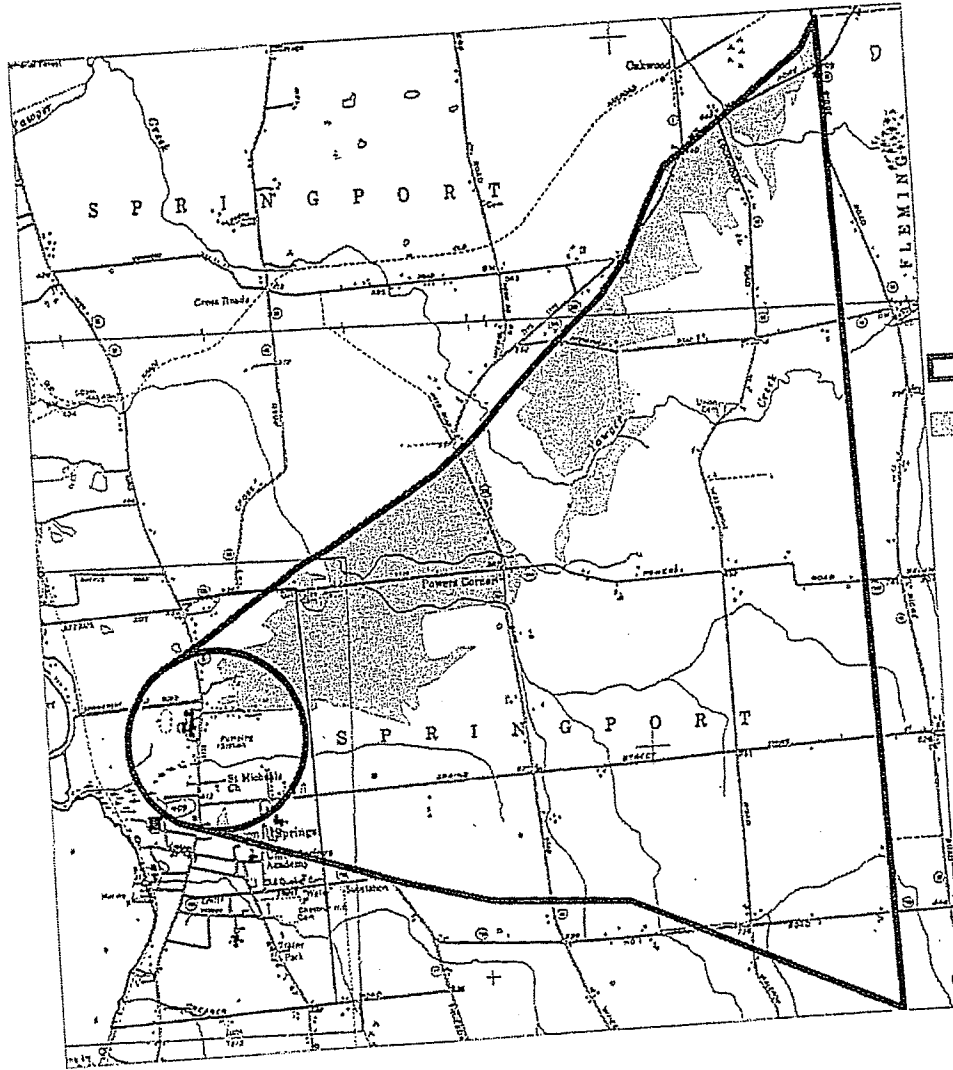


Figure 1
Wellhead
Protection Area

Legend

- Wellhead Protection Area
- Hydrologically Sensitive Areas

Scale
1:36000
1000 0 1000 Feet

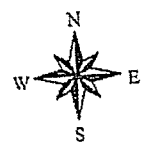
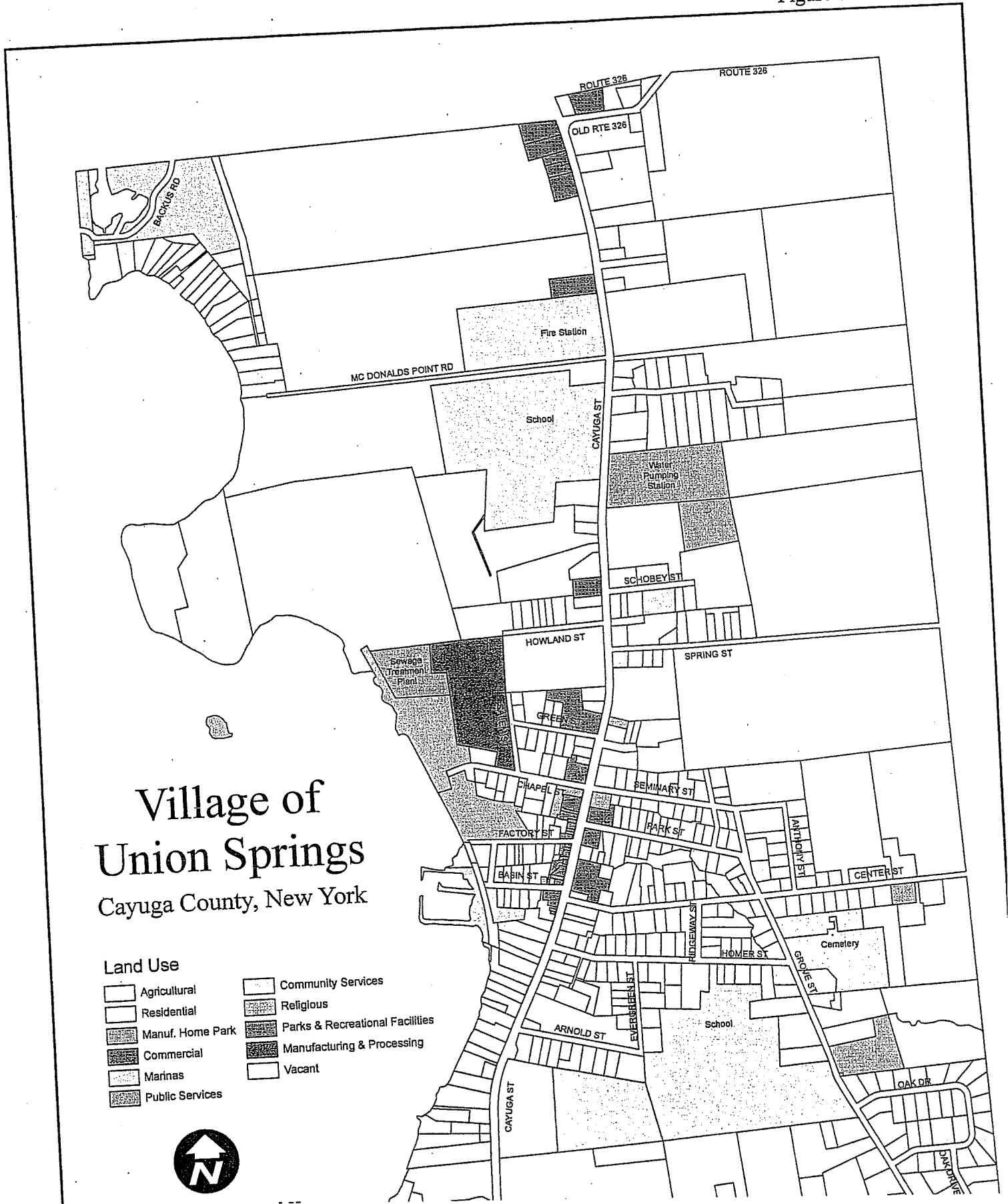


Figure 7



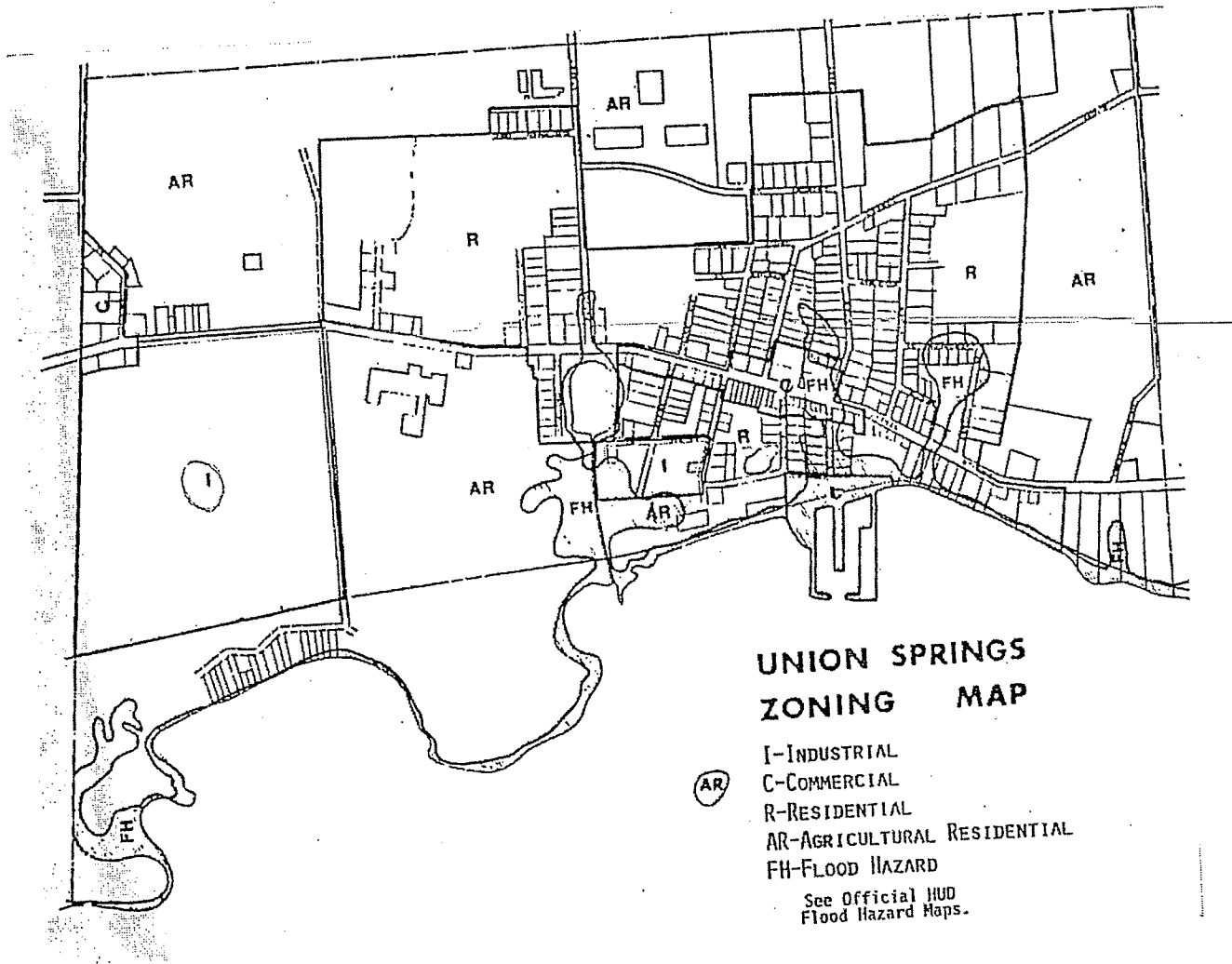
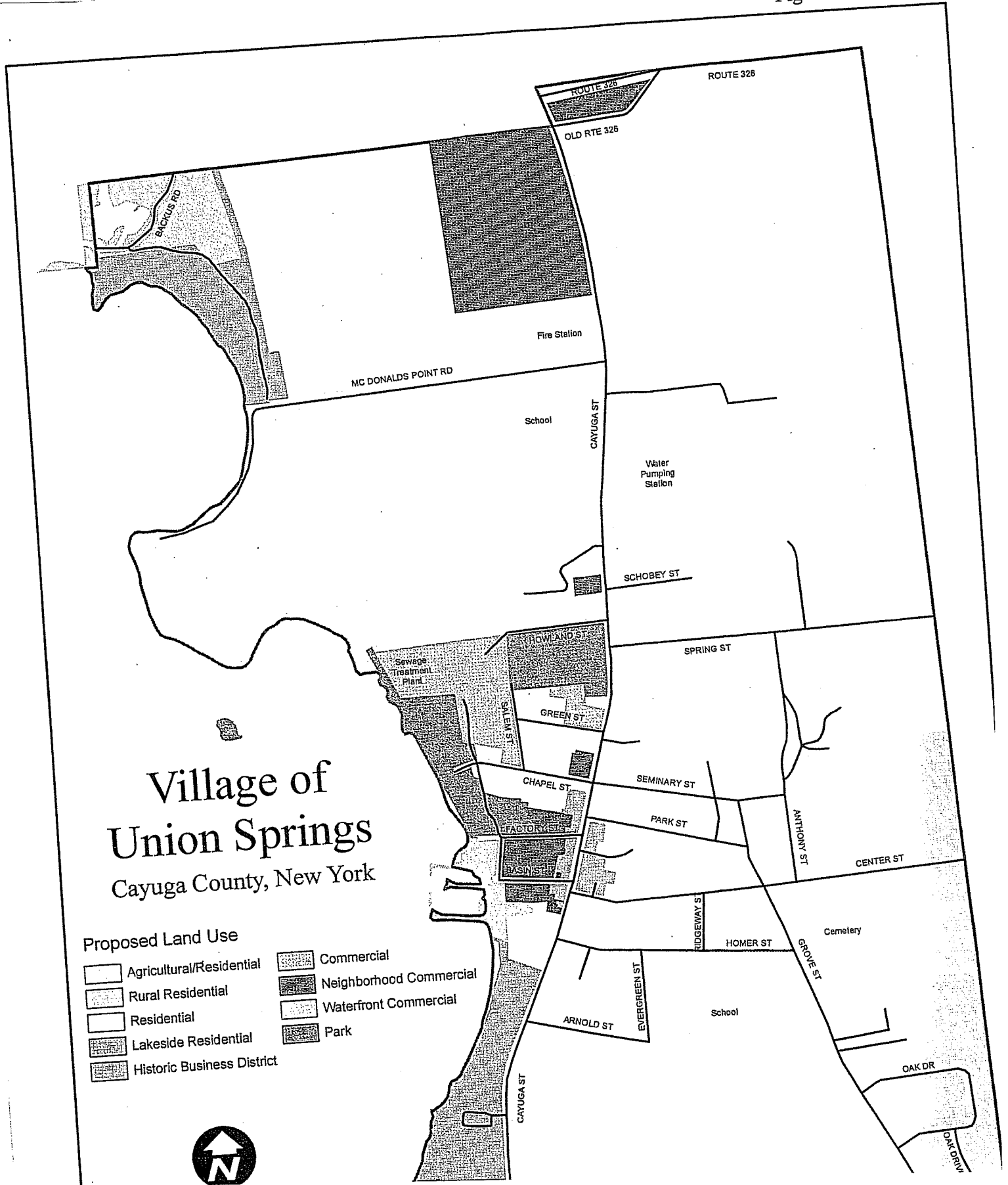


Figure 11



Land Use in the Village of Union Springs, 2005

Type	Acres	% of Total Acreage
Agriculture	324.61	30.28
Commercial	33.17	3.09
Community Service/Public Services/Religious	120.80	11.27
Industrial	11.04	1.03
Parks and Recreation	13.67	1.27
Residential	439.51	40.99
Vacant Land	129.37	12.07
Total Acreage**	1072.17	100.0%

Note: *All areas estimated based on available data from Cayuga County Real Property Services. Roads are not included in any of these categories, thus the total acreage does not add up to 1,130 acres.

Source: Cayuga County Department of Planning and Economic Development, GIS data, 2005.

Summary of Current Zoning Designations for the Village of Union Springs, New York

District	Title/General Use	Minimum Lot Size(Square Feet)	Minimum Lot Width (Feet)
AR	Agricultural Residential	0.5 acres	100
R	Residential	12,000	100
C	Commercial	5,000	50
I	Industrial	20,000	100
FH	Flood Hazard	N/A	N/A

Source: Village of Union Springs, Zoning Ordinance (Rev. 10/1987)

DRAFT

WELLHEAD PROTECTION PLAN

for the

**VILLAGE OF UNION SPRINGS WATER SUPPLY
CAYUGA COUNTY, NEW YORK**

SEPTEMBER 2002

Prepared by:

**Steven Winkley
New York Rural Water Association**

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1.0 INTRODUCTION & SETTING

The Village of Union Springs water supply system currently supplies a Village population of approximately 2,000 consumers (some 400 service connections). The Village system will also be supplying additional population in the adjacent Town of Springport. The Village of Union Springs obtains its water from two wells located off North Cayuga Street (Route 90). These two wells, referred to as the North Well and the South Well, are reportedly 160 feet and 120 feet respectively. These high-yielding wells are completed in karst limestone and dolomite bedrock.

Testing of the Village of Union Springs' wells revealed low levels of cis-1,2, DCE that are now being treated by the Village through air-stripping. Subsequent sampling revealed a plume of contaminated ground water from an unknown source(s) that covers an area of approximately 3,050 acres or 4.8 square miles. The plume falls within three townships, Aurelius, Fleming and Springport and extends from the City of Auburn limits southwestward to the Village of Union Springs, a distance of seven miles (see Figure 1). Approximately 120 homes are located within the boundaries of the plume.

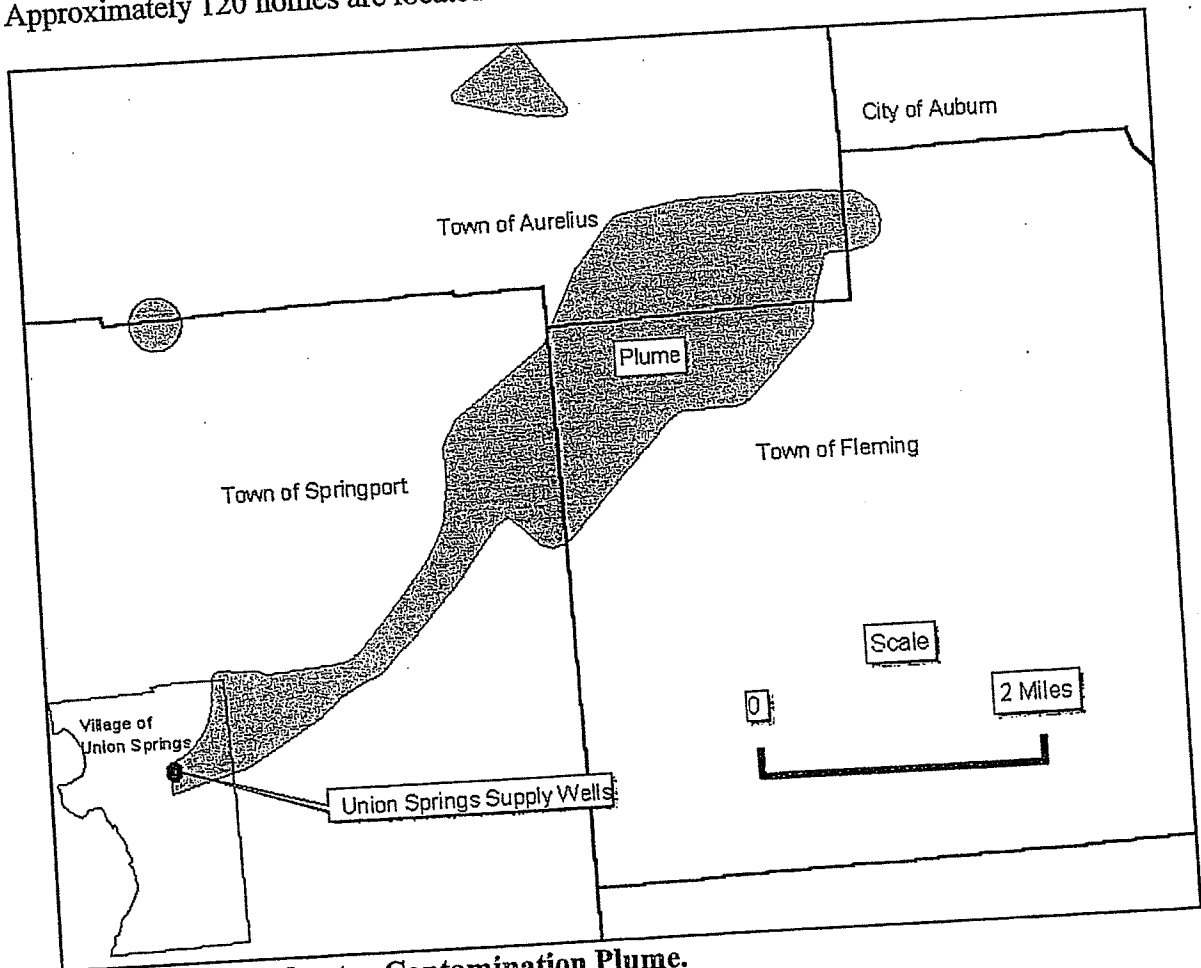


Figure 1. Groundwater Contamination Plume.

The bedrock aquifer supplying Union Springs' supply wells is composed of a number of apparently interconnected limestone and dolostone formations that exhibit strong downward gradients and karst properties including sink holes and cavernous conditions (as exhibited in video(s) of the Union Springs' wells). The bedrock aquifer is also exposed at or near the land surface in many locales upgradient of the Union Springs supply wells.

Concerns over agricultural uses and other uses in these hydrologically sensitive areas has prompted the Village of Union Springs and the Town of Springport to work with the New York Rural Water Association (NYRWA) to develop this Wellhead Protection Plan. This plan maps the wells' critical Wellhead Protection Areas, identifies land uses and potential sources of contamination, develops protection strategies, and plans for the future. It is hoped that implementation of this plan will help ensure a continued safe, reliable, and affordable water supply for residents of the Union Springs and Springport.

2.0 WELLHEAD PROTECTION AREA

The USEPA defines a *wellhead protection area* as the surface and subsurface area surrounding a well through which contaminants are reasonably likely to move toward and reach the water well. New York Rural Water Association mapped this area for the Union Springs supply wells based upon existing information including: well data and well yields, water quality sampling results, the Cayuga County Soil Survey map and report published by the National Resource Conservation Service (formerly Soil Conservation Service), and a Bedrock Groundwater Contour Map by Harding Lawson Associates.

The Village of Union Springs' wellhead protection area consists of two zones: Zone 1 (the inner protection zone) and Zone 2 (the direct contribution area) (see Figure 2 below). The inner protection zone is the circular area immediately surrounding the Union Springs public supply wells that is defined by a calculated fixed radius. This area can be regarded as the most critical in terms of protection due to the short travel time. Zone 2 is the area in the Town of Springport where current mapping and water quality data indicates bedrock groundwater flows towards Zone 1. The total area of the wellhead protection area is 4,664 acres or approximately 7.3 square miles (27 percent of the Town of Springport).

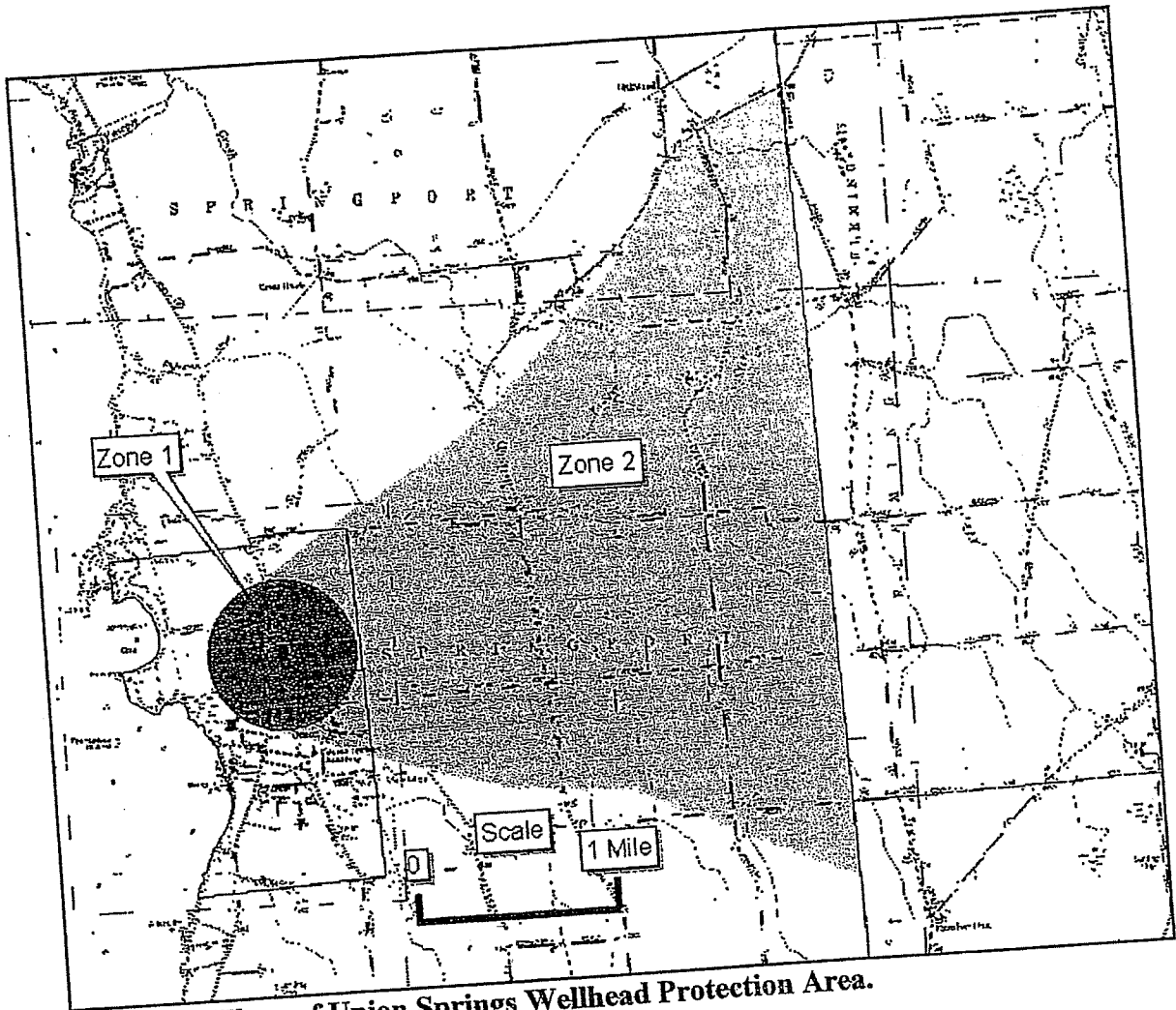


Figure 2. Village of Union Springs Wellhead Protection Area.

Zone 1 (Inner Protection Zone)

Zone 1 is defined by the calculated fixed radius equation:

$$R = \text{sqrt}(Qt/\pi nH)$$

Where Q is the daily pumpage (ft³/day), t is time (in days), n is the porosity (dimensionless), and H is the aquifer thickness. Using values obtained from the Cayuga County DOH, Q was taken to be 180 gallons per minute or 34,652 ft³/day. This is the reported yield of each of the two wells. The time was taken to be five years pumpage. The thickness of the aquifer was taken to be 127 feet for the North Well and 94 feet for the South Well. This aquifer thickness was calculated by subtracting the depth to water from the total well depth. Finally, the aquifer porosity was taken to be 0.02. This figure was based upon published values of overall porosity for karst aquifers. Based upon these values, the calculated radius is 1,781 feet for the North Well and 2,070 feet for the South Well. The inner well zone was taken to be the composite area formed by these two radii

Zone 2 (Direct Contribution Area)

Zone 2 is the remaining area of the wellhead protection area in the Town of Springport where bedrock groundwater flows towards Zone 1. This area was determined by drawing theoretical groundwater flow paths at right angles to bedrock contours as depicted by Harding Lawson Associates. The eastern extent of Zone 2 was taken to be Town line (see Figure 2 above).

Across the wellhead protection area, the most sensitive hydrologic areas are those where permeable limestone or dolostone bedrock is at or near the land surface (see Figure 3 below). This occurs across approximately nineteen percent of the wellhead protection area, in the general area of the solvent contamination plume.

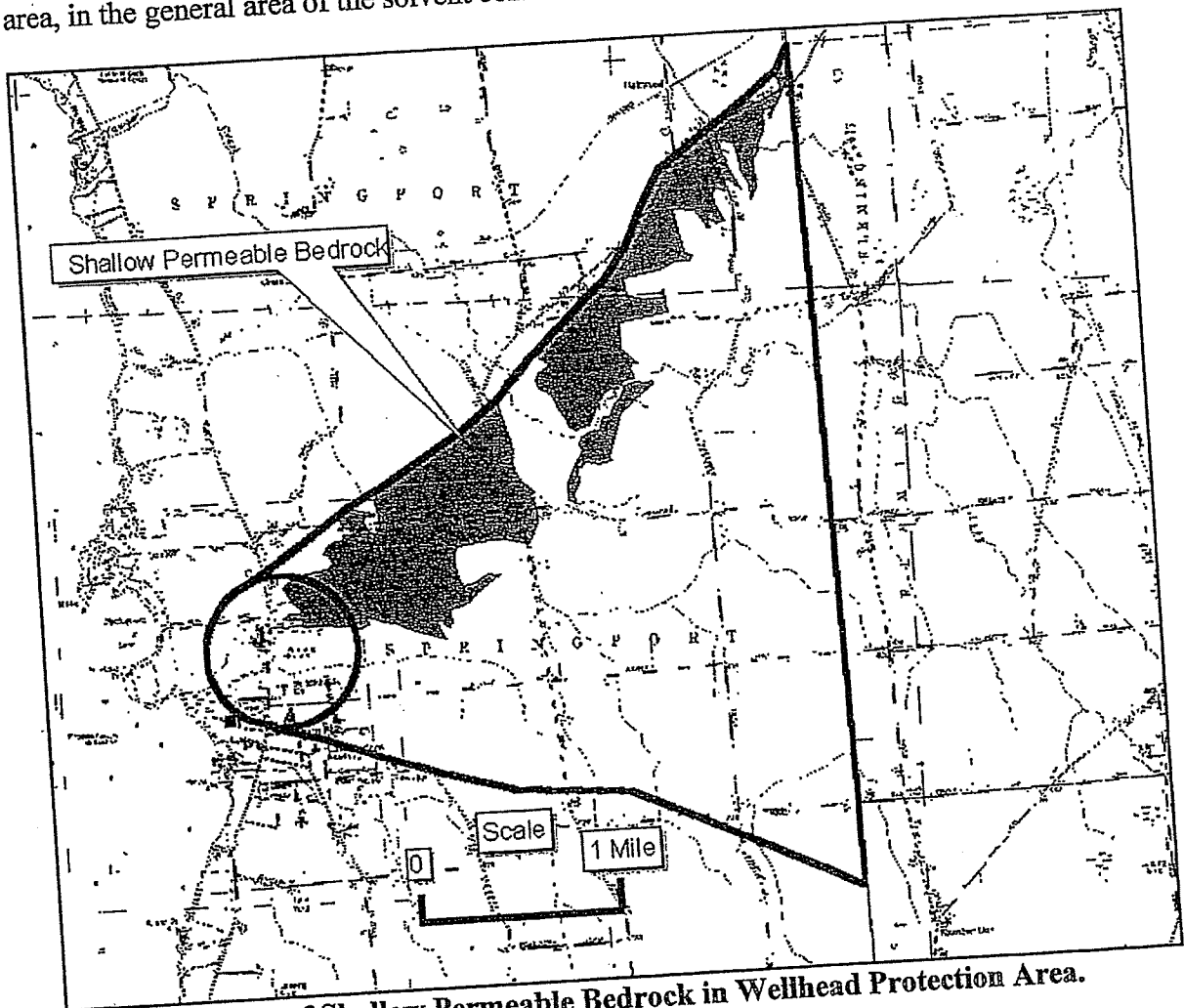


Figure 3. Areas of Shallow Permeable Bedrock in Wellhead Protection Area.

3.0 LAND USE AND POTENTIAL SOURCES OF CONTAMINATION

... protection area is predominately

upon the 1992 National Land Cover Dataset. Areas in yellow are reportedly pasture and areas in pink are reportedly row crops. Agricultural use is especially dominant in Zone 2.

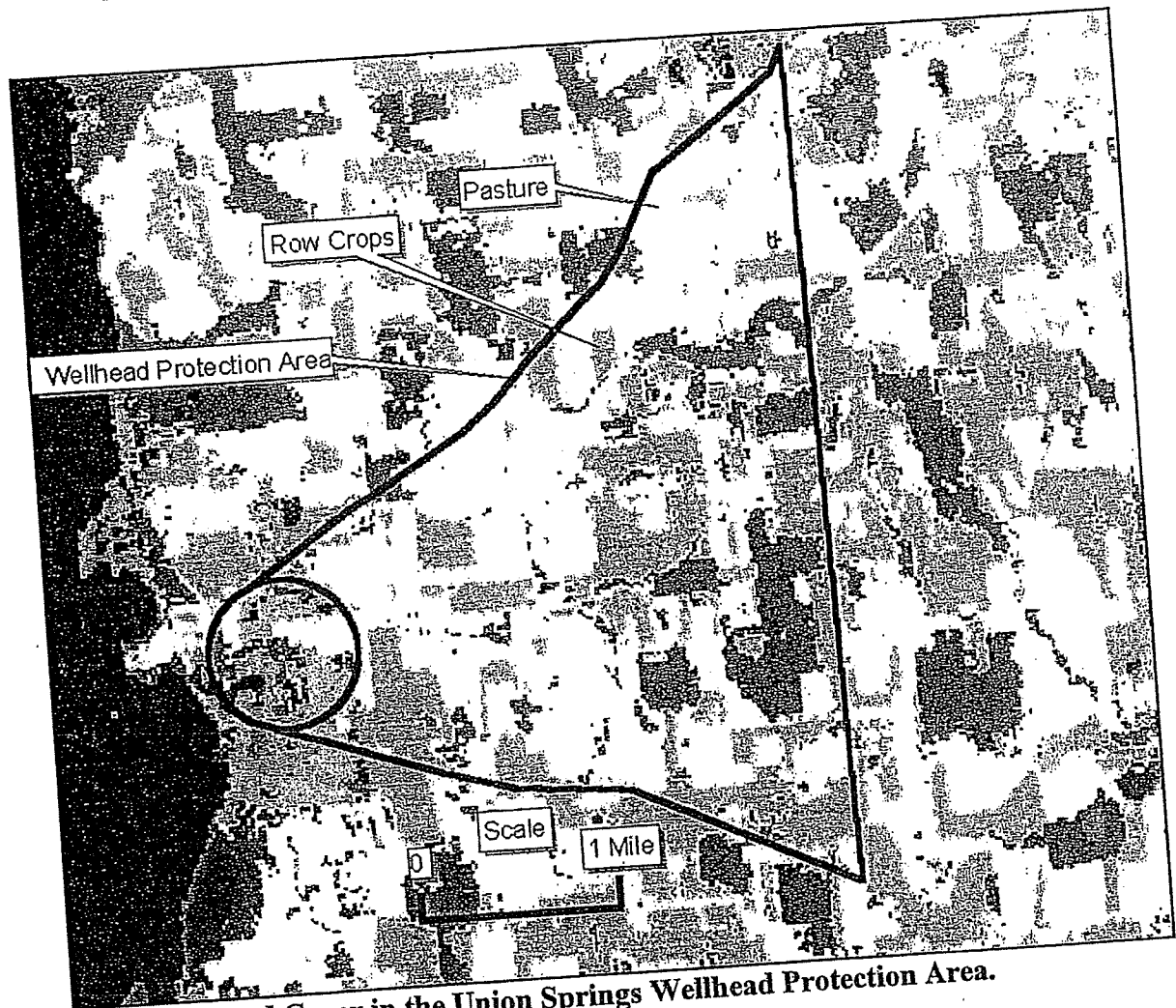


Figure 4. Land Cover in the Union Springs Wellhead Protection Area.

Cayuga County Agricultural District No. 5, depicted in green on Figure 5 below, covers virtually all of the wellhead protection area in the Town of Springport. In the Village of Union Springs, most of the wellhead protection area is zoned either residential or agricultural residential. However, the northwest portion of the wellhead protection area in the Village is currently zoned industrial. Wastewater in the Village is disposed of through a municipal wastewater treatment system. In the Town of Springport, the entire Town outside of the Village of Union Springs is zoned Agricultural/Residential. Large-scale commercial development or light industrial uses could be permitted within the wellhead protection area in the Town of Springport subject to special permit approval.

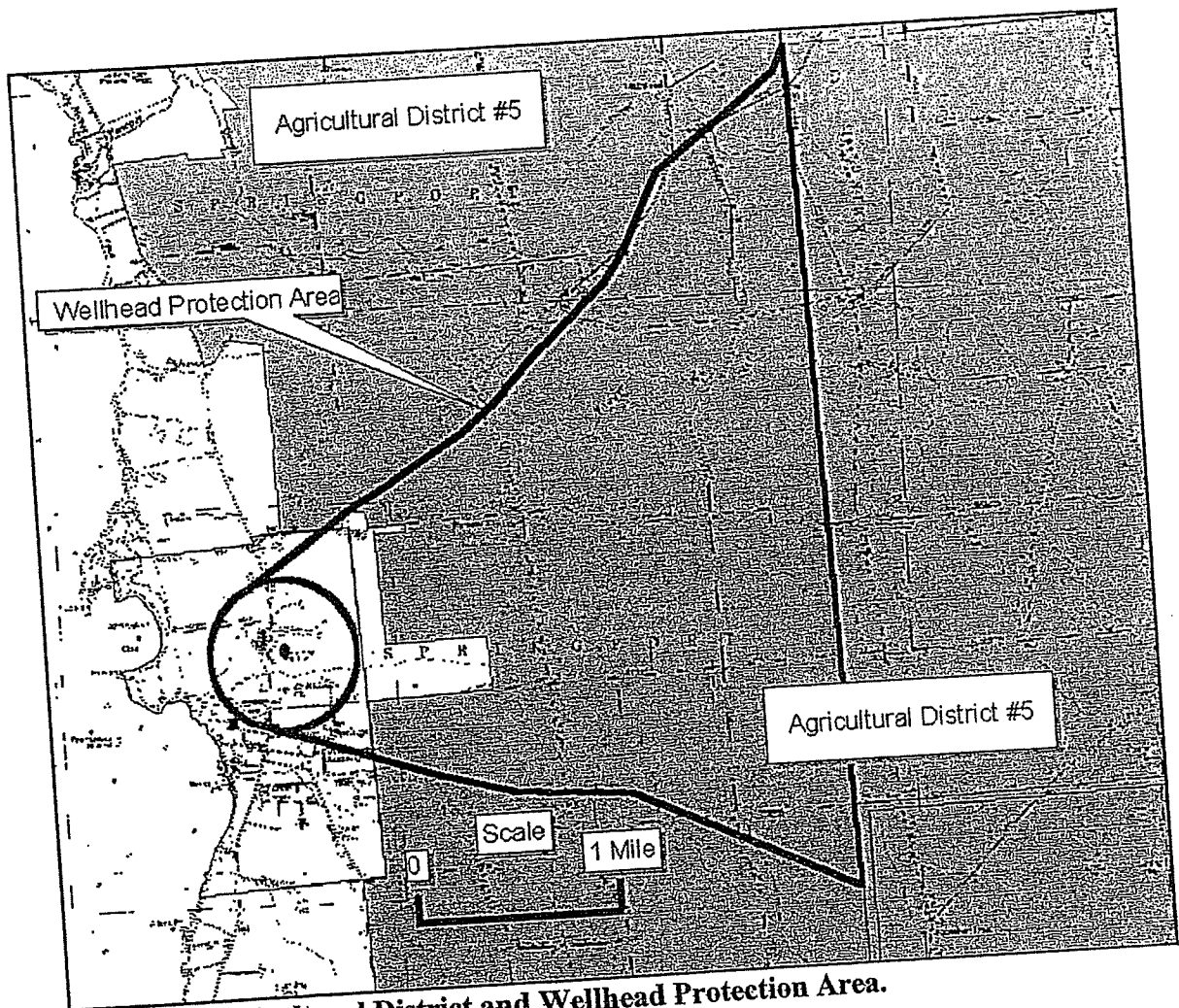


Figure 5. Agricultural District and Wellhead Protection Area.

In addition to the predominately agricultural land use in the area, there are 39 natural gas wells regulated by NYSDEC within the wellhead protection area (see Figure 6 next page). Some of these gas wells also produce brine that is temporarily stored onsite prior to eventual collection by tanker truck.

Based upon a review of regulatory agency data, present land use, and zoning, the potential sources of contamination of most concern within the wellhead protection area are:

- Management of animal wastes;
- Storage/disposal of gas well brine; and
- Future commercial development.

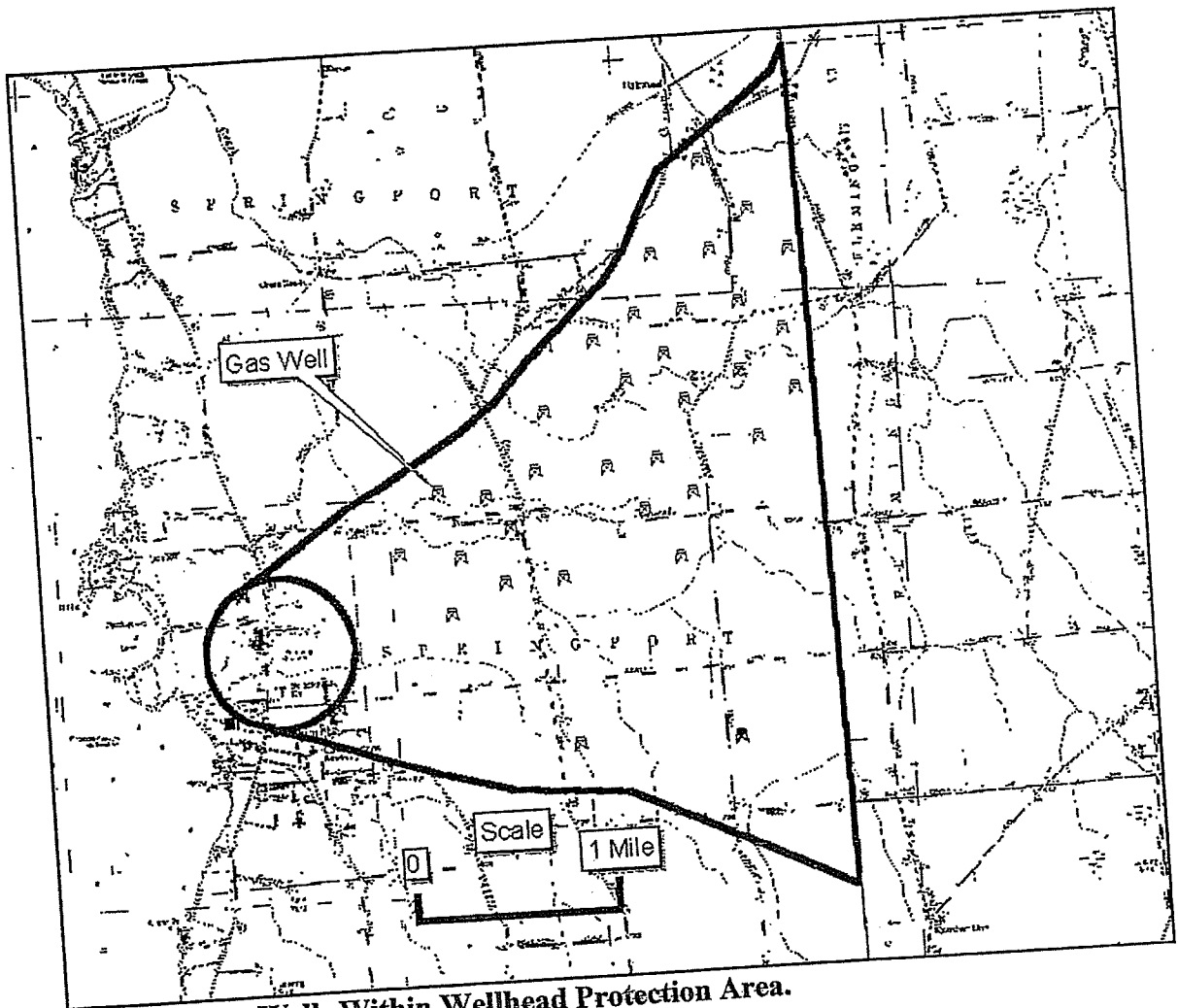


Figure 6. Gas Wells Within Wellhead Protection Area.

4.0 GROUNDWATER PROTECTION STRATEGIES

Management of Wellhead Protection Areas to prevent contamination and protect drinking water supplies involve regulatory and/or non-regulatory approaches that address the major contaminant threat(s).

Animal Wastes

Water quality problems can arise from agricultural operations if there is improper management, excessive intensity, or inappropriate land uses. Animal waste collection, storage, and disposal are of concern since there are a number of associated potential contaminants including nitrate, nitrite, bacteria, and pathogens (Giardia, Cryptosporidium). The trend in New York agriculture is toward increasing farm size and increasing intensiveness of use of agricultural land. The regulation of Concentrated Animal Feeding Operations (CAFOs) by the NYSDEC is reflective of these trends. An

month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. An AFO is deemed a CAFO and is regulated by NYSDEC if it has more than 1,000 animal units or has more than 300 animal units and has the potential to discharge wastes to surface waters of the State.

One concern that has been locally raised is that there is the potential for construction of a pipeline and lagoons in the wellhead protection area for the distribution and storage of liquid manure prior to eventual use and disposal. These wastes would likely be generated from CAFOs outside of the Town of Springport. If the CAFO and off-site facilities in the Town share a common waste management system, the off-site facility could potentially be considered part of the CAFO and would be subject to the CAFO permit. However, if a CAFO is exporting animal wastes to an off-site location that is owned or operated by another person or entity, the off-site facility is not part of the CAFO and is not required to follow CAFO requirements. However, the waste exportation activity and the facilities that accept the animal waste must be evaluated and identified in the CAFO's Agricultural Waste Management Plan (AWMP). The AWMP is a plan, in accordance with "Natural Resources Conservation Service - Conservation Practice Standard - Waste Management System No. 312 - NY", to properly manage liquid and solid waste, including runoff from concentrated areas.

How would the Town of Springport attempt to protect groundwater within the wellhead protection area from the impacts of animal waste storage and spreading? Should a local law be passed that regulates aspects of waste storage and disposal? New York State Agriculture and Markets Law protects farm operations within county agricultural districts. Article 25-AA Section 305 states that "*local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.*"

The Department of Agriculture and Markets reviews local laws on a case-by-case basis and considers several factors in determining whether a local law is unreasonably restrictive. In its published guidelines, the Department of Agriculture and Markets states that "*certain local permit requirements are reasonable, however, including, for example, submission of copies of Department of Environmental Conservation (DEC) applications, materials and approvals to the local government; provisions for access to permitted sites and information on the activity (e.g., copies of information submitted to DEC to maintain a permit); and a reasonable permit fee.*"

NYRWA suggests that the Town of Springport and Village of Union Springs pass a local law requiring that prior to construction or use of a composting facility, manure transfer facility, agricultural waste storage facility, or agricultural waste treatment facility in the

including a map showing the location of all composting, manure transfer, waste storage, and/or waste treatment facilities with respect to the wellhead protection area. For composting, manure transfer, waste storage, and/or waste treatment facilities located within 1,000 feet of the most hydrologically sensitive portion of the wellhead protection area (shallow permeable bedrock), the owners/operators of regulated CAFOs must also submit copies of: its State Pollutant Discharge Elimination System (SPDES) Permit; the completed Notice of Intent (NOI); and the Agricultural Waste Management Plan (AWMP). The AWMP must address any waste exportation activity into the wellhead protection area, including composting, manure transfer, waste storage, and/or waste treatment facilities that are accepting animal wastes in the wellhead protection area. If the AWMP is not completed (large CAFOs have until January 1, 2002 and medium-sized CAFOs will now likely have until June 30, 2004 to complete their AWMPs), the CAFO must provide a statement that the composting, manure transfer, waste storage, and/or waste treatment facilities have or will be designed, constructed and operated in accordance with the NRCS Conservation Practice Standard No. 312 -NY standards.

The local law should also require that the Town (and Village) has the right to access the permitted sites to ensure that Generic Best Management Practices (BMPs) specified in the CAFO permit are being followed as well as any facility-specific BMPs that may also be specified in the AWMP. Local officials and the New York State Department of Agriculture and Markets should review the draft local law found in Appendix A. Owners of agricultural property in the wellhead protection area as well as CAFO owners from adjacent towns should be made aware of the draft law. The law was written to allow the Town (and Village) to inform CAFO owners/operators of the importance of the Union Springs wellhead protection area. It does not go beyond the NYSDEC requirements and is within the New York State Department of Agriculture and Markets' guidelines.

Gas Well Brine

Brine is a natural by-product product associated with gas well production. Most brine associated with gas wells in New York reportedly contains salty water with very little or no other constituents such as petroleum or radioactive substances. The production of brine is largely a function of the characteristics of the natural gas producing formation(s) and the history of the gas field. By regulatory definition (6 NYCRR Part 371), gas field brine is not a hazardous waste, but instead a solid waste. Brine must be stored on-site in a watertight tank or container as specified in 6 NYCRR Part 556.5. The brine is then collected by a waste hauler that should be permitted according to 6 NYCRR Part 364. The disposal of brine is either through underground injection in deep wells or through land spreading on roads as a deicer or for dust control on dirt roads. Underground injection of the brine must be approved by NYSDEC. Currently one well in Cayuga County is permitted for the disposal of brine. It is located in the Town of Aurelius.

The land application of a solid waste such as brine produced from natural gas production is prohibited by 6 NYCRR Part 360, but historically this has not occurred.

Beneficial Use Determination (BUD) is a designation made by the NYSDEC as to whether the 6 NYCRR Part 360 Solid Waste Management Facilities regulations have jurisdiction over waste material that is to be beneficially used. Once the NYSDEC grants a BUD, the waste material ceases to be considered a solid waste (for the purposes of Part 360) when used as described. The BUD for road spreading of brine waste will likely have such items as testing requirements, spreading rates, setbacks, etc.

Unfortunately, the unique hydrogeological conditions that make the Union Springs water supply susceptible to contamination will be difficult to address in a Generic BUD to be approved by NYSDEC at some unknown date in the future. For that reason, NYRWA recommends that the Town of Springport and Village of Union Springs consider passing the Local Law in Appendix B. This Local Law would ban the spreading of brine from gas wells on roads or other lands within the wellhead protection area. It would also place restrictions on brine spreading in other portions of the Town (or Village) as well.

Future Development

As indicated before, the current zoning law of the Village of Union Springs and the Town of Springport are such that large-scale commercial and/or industrial development could be permitted in some of the wellhead protection area. Such future development would require a special use permit. NYRWA proposes that both the Town and Village amend its special use permit requirements to ensure that the development adequately protects groundwater resources. Both communities could add the following language to the special permit approval criteria:


The proposed use must afford adequate protection to prevent contamination and depletion of the groundwater resources that provides drinking water for private residential wells and municipal wells operated by the Village of Union Springs. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality and quantity that would result if the control measures failed.

APPENDIX A Proposed Local CAFO NOI Law

Figure 1

Wellhead Protection Area

Legend

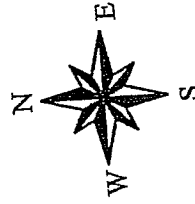
 Wellhead Protection Area

 Hydrologically Sensitive Areas

Scale

1:36000

1000 0 1000 Feet



APPENDIX B: Proposed Brine Spreading Law

Town of Springport
Local Law ___ of 200_

A Local Law to protect the public drinking water supply source for residents of the Town of Springport by encouraging the sound management of agricultural wastes.

Be it enacted by the Town Board of the Town of Springport as follows:

SECTION 1: LEGISLATIVE INTENT

A significant number of residents of the Town of Springport receive or will receive their drinking water from groundwater wells operated by the Village of Union Springs. These high-producing wells located in Union Springs draw water from a bedrock aquifer that is highly susceptible to contamination due largely to its permeable and shallow nature.

The land area that contributes groundwater recharge to the Union Springs wells is referred to as the Wellhead Protection Area. This area is depicted in Figure 1 that is attached and made part of this Local Law. The most vulnerable portions of the Wellhead Protection Area are Hydrologically Sensitive Areas where the permeable limestone or dolostone bedrock is at or within three feet of the land surface (see Figure 1).

The principal land use in the Wellhead Protection Area in Springport is agriculture. Water quality problems can arise from agricultural operations if there is improper management, excessive intensity, or inappropriate land uses. Agricultural waste collection, storage, and disposal are of particular concern in the Wellhead Protection Area since there are a number of associated potential contaminants including nitrate, nitrite, bacteria, and pathogens.

It is the intent of this Local Law to ensure a safe, reliable, and cost-effective drinking supply for residents of Springport by encouraging the careful management of agricultural wastes in the Wellhead Protection Area. This Local Law has been written to be consistent with requirements of the New York State Department of Environmental Conservation (NYSDEC). It also follows guidelines published by the New York State Department of Agriculture and Markets to not unreasonably restrict or regulate farm operations.

SECTION 2: AREA OF APPLICABILITY

This Local Law shall apply to that portion of the Wellhead Protection Area located in the Town of Springport outside of the Village of Union Springs (see Figure 1). The Wellhead Protection Area was mapped by the New York Rural Water Association in the Union Springs Wellhead Protection Plan. The Hydrologically Sensitive Areas are based on the Orange County Soil Survey

SECTION 3: DEFINITIONS

The following definitions shall be controlling for the purposes of this Local Law:

Agricultural Environmental Management (AEM) Planner - a planner deemed qualified by the Commissioner of Agriculture and Markets, in consultation with the State Soil and Water Conservation Committee, to develop and review Agricultural Waste Management Plans for Concentrated Animal Feeding Operations (CAFOs) in New York State.

Agricultural Waste Management Plan (AWMP) - A plan prepared by a qualified AEM planner in accordance with good engineering practices that include measures necessary to prevent pollutants in runoff. The plan shall describe and ensure the implementation of practices that are to be used to assure compliance with the limitations and conditions of the CAFO permit. Facilities identified in the AWMP shall be designed, constructed and operated in accordance with the National Resource Conservation Service (NRCS) Conservation Practice Standard No. 312 -NY standards.

Agricultural Waste Storage Facility - an impoundment made by constructing an embankment and/or excavating a pit, or by fabricating a structure to temporarily store agricultural wastes such as manure, wastewater, and contaminated runoff.

Agricultural Waste Treatment Facility - a facility to biologically treat agricultural waste such as manure and wastewater. Commonly it is composed of an impoundment made by constructing an embankment and/or excavating a pit or dugout, or by fabricating a structure (i.e. anaerobic lagoons). Other treatment facilities included constructed wetlands, anaerobic digestors, etc.

Animal Feeding Operation (AFO) - a lot or facility where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.

Animal Unit - a unit of measurement for any animal feeding operation calculated by adding the following numbers: number of slaughter and feeder cattle and dairy heifers multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

Best Management Practices - shall be the reasonably economically, physical