

This Chapter discusses the potential impacts that the proposed action and the alternatives may have on water resources.

As confirmed in correspondence received from the ACOE Buffalo District (Snead, October 29, 2008 and Snead, December 17, 2008), no approvals or authorizations would be required at this time pursuant to the Clean Water Act Section 404 because no development is planned for the properties subject to the fee-to-trust application. In the interim, the Nation would continue use of its properties for the multiple purposes in operation at the time of the fee-to-trust application, including gas stations and convenience stores, a car wash, and gaming facilities. The properties would otherwise be left undisturbed or managed under their current maintenance regime. That is, any land management activities, such as mowing, clearing, and agricultural uses, would continue to be subject to all federal wetland regulations applicable to the properties at present. At such time as development is contemplated in the future, a formal wetland delineation would be required on each of the affected subject properties to confirm the presence/absence of wetlands and to establish the extent (e.g., the boundaries) of wetlands subject to ACOE jurisdiction. Any future development of the Nation's lands would comply with all applicable Federal laws.¹

A. ALTERNATIVE 1: PROPOSED ACTION

Under this alternative, the Nation's subject properties would be put into federal trust and the Nation would continue use of the subject properties for the multiple purposes in operation at the time of the fee-to-trust application, including gas stations and convenience stores, a car wash, and gaming facilities. The properties would otherwise be left undisturbed or managed under their current maintenance regime. No changes are proposed that would affect existing water resources, as described in Section 3.2, "Water Resources." As referenced above, the U.S. Army Corps of Engineers (USACE), in correspondence dated December 17, 2008, acknowledges no permits or approvals will be required for the Proposed Action pursuant to Section 404 of the Clean Water Act, and states that no further coordination under the Clean Water Act is required. This correspondence from the USACE is provided in Appendix C of the DEIS. Therefore, there would be no significant impacts to water resources as a result of the Proposed Action.

B. ALTERNATIVE 2: NO ACTION

Under this alternative, the Nation's properties would not be placed into trust, and the Nation would continue to own the properties in fee. The Nation would continue use of its properties for the multiple purposes in operation at the time of the fee-to-trust application (e.g., gas stations and convenience stores, and a car wash). Under this alternative, the Nation may elect to return the subject properties to the environmental baseline conditions by reopening its temporarily

¹ See Appendix C for correspondence with United States Army Corps of Engineers dated October 29, 2008 and December 17, 2008.

closed gaming facilities, in which case, no changes from the environmental baseline would occur. Under this alternative, there would be no changes to existing water resources onsite and in the vicinity of the Nation's four properties, as described in Section 3.2, "Water Resources." Therefore, there would be no significant impacts to water resources as a result of the No Action Alternative.

C. ALTERNATIVE 3: ENTERPRISE PROPERTIES INTO TRUST

Under Alternative 3, which would place the Nation's property in Seneca Falls and Union Springs into trust, no changes are proposed to existing water resources as described in Section 3.2, "Water Resources." Under this alternative, the property would continue to be used as it is now, as in Alternative 1: Proposed Action, and there would be no changes to existing water resources onsite and in the vicinity of the Nation's four properties. Therefore, there would be no significant impacts to water resources as a result of the Enterprise Properties into Trust Alternative.

D. CUMULATIVE IMPACTS

No cumulative impacts on water resources are anticipated for the proposed action under any of the analyzed alternatives. No other currently active proposals are similar to the proposal in either county. Tribal fee-to-trust applications in other New York counties are also not anticipated to produce statewide cumulative impacts, since any water resource impacts from other proposals, if any, would be localized. Implementation of the Nation's proposal would return both Counties' conditions to those of the environmental baseline date of the Nation's application, which included the gaming operation. With no impacts on water resources resulting from the proposal, and no other proposals impacting the same resources, no cumulative impacts are anticipated.