

A. INTRODUCTION

The Cayuga Nation of New York (the “Nation”) has applied to the Bureau of Indian Affairs (“BIA”) for a fee-to-trust transfer of 125± acres¹ of land owned by the Nation (the “Proposed Action”). A Draft Environmental Impact Statement (“DEIS”) was issued for public review on May 22, 2009, and a public hearing was held at the New York Chiropractic College, in Seneca Falls, Seneca County, New York on June 17, 2009. This Final Environmental Impact Statement (“FEIS”) addresses comments received from involved and interested agencies, as well as the public.

The property proposed for fee-to-trust transfer had been comprised of seven separate parcels (nine tax map I.D. numbers) located in the Village of Union Springs and the Towns of Springport and Montezuma, in Cayuga County, and the Town of Seneca Falls, in Seneca County, New York.² However, the 0.018 acre parcel of land in the Town of Montezuma which was evaluated in the DEIS has been withdrawn from the fee-to-trust application, and is no longer included as part of the Proposed Action or any alternatives. Figure 1-1, “Regional Location,” indicates the general location of the subject properties in the region, and Figure 1-2, “Property Location,” indicates the location of these properties.

The purpose of the Proposed Action is to address the Nation’s need for cultural and social preservation, political self-determination, self-sufficiency, and economic growth as a federally recognized Indian tribe. Under the Proposed Action, the Nation intends to continue to use the subject properties in their current uses, including two gas stations, two convenience stores, a car wash, two gaming facilities, and vacant land.³

B. BACKGROUND AND HISTORY

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

¹ The notice of intent published in the Federal Register on February 13, 2006 (71 FR 7568) cited the conveyance into federal trust of seven parcels comprising 125± acres of land. The records of the affected municipalities report the actual acreage of the seven parcels included in the Nation’s Land Trust Application to be 129.16 acres. Since the Proposed Action now excludes the Montezuma parcel, the fee-to-trust application comprises six parcels and 129.14 acres of land.

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

³ The Nation’s gaming operations were in operation at the time of the fee-to-trust application. The gaming operations are therefore considered current uses and part of the affected environment.

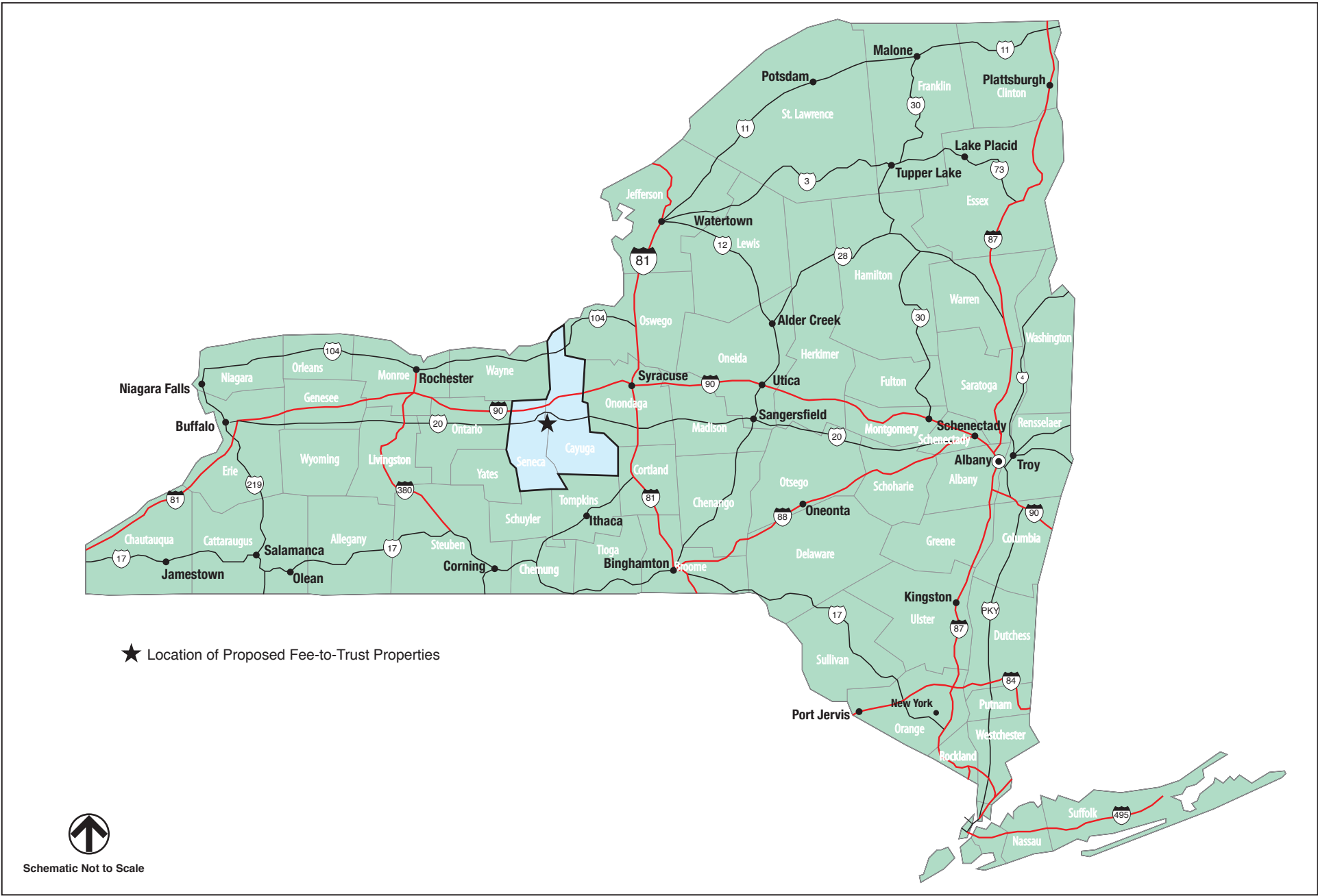
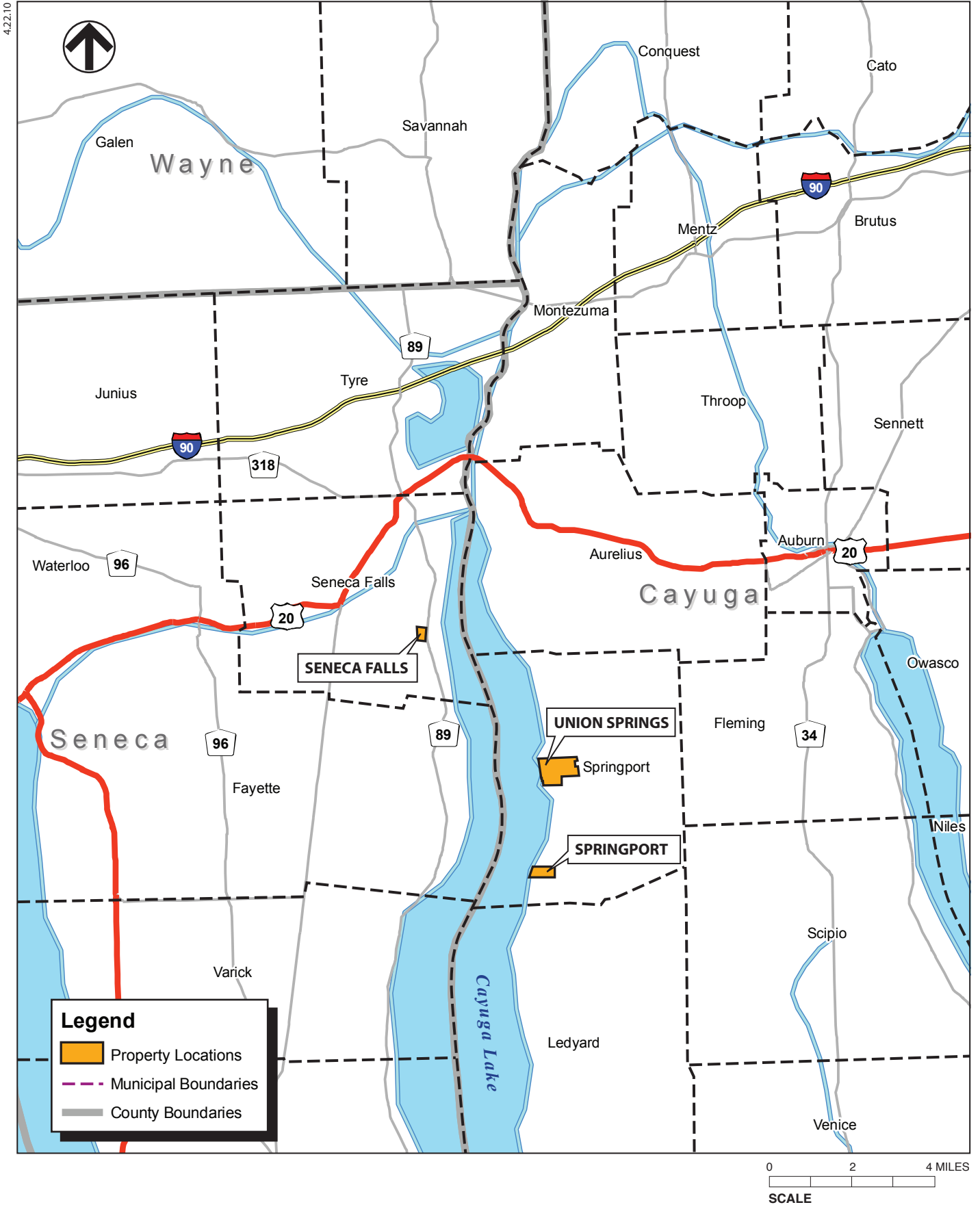


Figure 1-1
Regional Location



Cayuga Indian Nation Trust Application FEIS

territory incorporated in excess of three million acres of land. This territory, which encompasses the land owned by the Nation subject to the Proposed Action, is part of 64,015 acres guaranteed to the Cayuga Indian Nation as reservation land under the Treaty of Canandaigua in 1794, a treaty with the United States government and signed by President George Washington. The Cayuga's reservation has never been disestablished by Congress.

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

The transfer into federal trust of the Nation's Cayuga and Seneca County properties would provide cultural resource protections and enable the Nation to govern their lands as a sovereign Indian Nation. The transfer of land into Federal trust under 25 USC 465 and 25 CFR 151¹ is an appropriate and accepted means of furthering the federal government's policy to support and protect federally recognized Indian nations. The properties subject to the Proposed Action were purchased by the Nation at fair market value from willing sellers. These lands were not taken by condemnation or given to them by the government, and the proposed fee-to-trust process is separate and distinct from any Nation land claims.

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

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

C. PURPOSE AND NEED

To generate revenues to fund tribal programs and services, the Nation operates two convenience stores and gas station businesses in Union Springs and Seneca Falls ("Enterprises"), and a car wash in Union Springs. As discussed below, at the time of the fee-to-trust application, the Nation generated additional revenues through the operation of two Class II gaming facilities. These Enterprises are operated through the Nation's business arm, LakeSide Enterprises. The overall businesses are referred to as LakeSide Trading 1 in Union Springs, and LakeSide Trading 2 in Seneca Falls. Both of these convenience stores sell cigarettes and other tobacco products to Indians and non-Indian patrons.

On July 20, 2003, the Nation adopted a Resolution authorizing and adopting a Class II Gaming Ordinance (see Appendix K of the DEIS). The Ordinance authorized Class II gaming on Indian land pursuant to regulations promulgated by the National Indian Gaming Commission ("NIGC") and in accordance with the provisions of the Indian Gaming Regulatory Act ("IGRA").² Shortly

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

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

thereafter, the Nation opened its two Class II gaming facilities in Union Springs and Seneca Falls, known as LakeSide Entertainment 1 and 2, respectively. At that time, the gaming facilities, gas stations, car wash, and cigarette sales comprised the Nation's primary revenue sources. In September and October 2005, subsequent to the Nation's fee-to-trust application, dated May 25, 2005, operations at these gaming facilities were voluntarily and temporarily suspended due to threats of litigation from local governments. Upon suspending the gaming operations, the Nation was left to depend on revenues from its convenience store sales, car wash, and gas and cigarette sales to fund all tribal programs and activities.

As the Nation has publicly stated, the Nation intends to re-open these gaming facilities upon the fee-to-trust transfer, as the revenues from its Enterprises are critical to the Nation's plan to establish economic self-sufficiency as well as its desire to maintain a strong tribal government, both of which are among the goals of IGRA. The reestablishment of gaming facilities as a revenue source is critical to the Nation's fiscal and cultural well-being.

The Proposed Action, then, is the fee-to-trust transfer of the Nation's approximately 125± acres of land, including its Enterprise operations. The Nation wishes to continue use of its properties for multiple purposes, involving the continuation of previous and existing uses. Existing and previous uses are those in operation at the time of the fee-to-trust application and are considered the baseline conditions for this analysis. These uses include convenience store and gas station operations, gaming facilities, a car wash and related activities. The Nation presently has no plans for further development of the properties subject to this application.

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

D. THE ENVIRONMENTAL REVIEW PROCESS

OVERVIEW OF THE NATIONAL ENVIRONMENTAL POLICY ACT

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

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

A Draft EIS ("DEIS") for the Proposed Action and was prepared and issued for public review on May 22, 2009. The present document represents the Final EIS ("FEIS").

The NEPA process involves a series of steps, as summarized below:

NOTICE OF INTENT ("NOI")

The BIA published the NOI for this Proposed Action in the Federal Register on February 13, 2006 (71 FR 7568). The NOI established a public comment period that began on February 13,

Cayuga Indian Nation Trust Application FEIS

2006 and ended on March 15, 2006. In addition to publication in the Federal Register, the NOI was published on February 12, 2006 in two newspapers of local circulation: The Citizen and The Finger Lakes Times. Copies of the Federal Register NOI and the local notices are attached to the DEIS as Appendix A.

SCOPING

At a march 1, 2006 public meeting, the public provided comments and suggestions on the alternatives, issues, and environmental impacts that they wished to see analyzed in the EIS. The NOI announced the scoping meeting, which occurred at the New York Chiropractic College, Seneca Falls, Seneca County, New York. Oral comments from the public were recorded by a stenographer, and comment cards were made available to assist attendees provide written comments. Written comments were accepted for another two weeks, and the scoping comment period closed on March 15, 2006. The issues raised during the scoping meeting were summarized in a Scoping Report that is included in the DEIS as Appendix B.

DEIS PREPARATION

Using the Scoping Report as a guide, the DEIS was prepared to describe, analyze, and compare the potential environmental impacts of the Proposed Action and its alternatives. As noted above, the DEIS was issued for public review on May 22, 2009, the date a Notice of Availability was published in the Federal Register.

Prior to public release, a pre-publication DEIS was prepared. This document was sent on February 17, 2009 to Cayuga and Seneca Counties, and to the New York State Department of Environmental Conservation under a Cooperating Agency Memorandum of Understanding (“MOU”). These “cooperating agencies” were asked to review the pre-publication DEIS and verify the accuracy of information within their areas of special expertise. A copy of the MOU is attached to the DEIS in Appendix E.

DEIS PUBLIC HEARING

NEPA requires a minimum of 45 day comment period once a DEIS becomes publicly available. During this time, the BIA conducted a public hearing (on June 17, 2009), and received comment letters from the public and concerned organizations and agencies.

The June 17, 2009 public hearing was held at the New York Chiropractic College, in Seneca Falls, Seneca County. A stenographer recorded orally presented comments, and comment cards were provided to assist attendees offer written comments. Each letter received by mail or fax, or that was hand-delivered is part of the public record, and all such documents are included in this FEIS as Appendix A.

FEIS PREPARATION

The FEIS – the present document – is prepared to reflect and consideration all comments received during the public comment period. This FEIS, including its appendices, contains responses to those comments.

RECORD OF DECISION

Upon the publication of this FEIS is a minimum 30-day waiting period before a Record of Decision (“ROD”) can be issued by the Secretary of the Interior. A ROD notifies the public of the selected alternative and the reasons for that decision. The EIS analysis is considered as part of the decision-making process. NEPA does not dictate that an agency select the most

environmentally beneficial or least expensive alternative. The purpose of NEPA is to ensure that accurate environmental studies are performed, that they are done with public involvement, and that agencies make decisions based on an understanding of environmental consequences.

A decision on a land-into-trust application will also be based on consideration of the criteria described in the Bureau of Indian Affairs' land acquisition regulations, 25 C.F.R. 151.10. The ROD will contain an analysis of these criteria.