

This chapter discusses the potential impacts that the Proposed Action and the alternatives may have on resource use patterns.

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 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 applicable federal environmental regulations. As a result, no changes are proposed that would affect existing resource use patterns, as described in Section 3.11, "Resource Use Patterns." Under this alternative, there would be no changes to onsite or area agriculture, recreation or site land uses. Under the Proposed Action, the Nation would gain jurisdiction over the land, and local land use and zoning requirements that currently apply to the Nation's lands would no longer apply. However, there would be no significant impacts to the resource use patterns as a result of the Proposed Action and the Nation's resource use policies would be applicable to its trust lands.

For each affected municipality, Nation lands proposed for conveyance into trust under the Proposed Action and other alternatives comprise only a small percentage of the entire area of the community, minimizing the geographic extent of the effect. In addition, most Nation lands are currently consistent with existing zoning and land use regulations in the communities in which they are located.

Under this alternative, land use regulation would be conferred on the Nation and be subject to the Cayuga Nation Land Use Ordinance, Ordinance No. CN-2003-01, adopted in 2003 (see Appendix K of the DEIS). This ordinance provides for the regulation of the type and scale of development that occurs on the Nation's lands, including trust lands. This ordinance mandates that no existing land uses can be substantially changed or altered unless a Land Use Permit is obtained. The provisions of the Nation's ordinance further require that the Nation consider compatibility of use, location of the proposed use, its congruity with the area, and the environmental effect of the use. These requirements, therefore, provide a measure of protection to adjacent land uses; public health and safety of residents, neighborhood character and comprehensive planning that are similar to the type of protection provided by local zoning, land use and other regulations. The application of this ordinance is expected to ensure the health, safety and welfare of the Nation and the surrounding communities.

The baseline utilized for the U.S. Secretary of the Interior's consideration of potential jurisdictional problems and land use conflicts arising from the Proposed Action is the conservative assumption that New York State and local governments currently have jurisdiction

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over the Nation's lands, and that by placing the land in trust status, jurisdiction would transfer to the Nation (except as otherwise provided by Federal law, e.g., 25 U.S.C. §§ 232, 233).

Irrespective of whether land is placed in trust or not, the land would continue to be regulated by Federal laws, including environmental laws. The U.S. Environmental Protection Agency (EPA) would continue to have primacy for environmental regulations and oversight. Through its policies, the Nation has indicated its commitment to standards of environmental protection, conservation, and public health and safety. Several commenters have questioned the qualifications and ability of Nation members to enforce federal regulations and statutes. It is the responsibility of the Nation to follow federal regulations, while it is the responsibility of the federal government to enforce these standards. The policing efforts and enforcement policies of federal regulatory agencies are not within the scope of this FEIS.

The combination of Federal and Nation regulatory oversight and the ongoing practice of consultation and coordination between the Nation and Federal, New York State, and local agencies could serve as a mechanism to mitigate effects stemming from the placement of lands in trust status.

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). The Nation would also have to determine whether or not it would re-open its gaming facilities, in which case, no changes from the environmental baseline would occur. Under this alternative, there would be no changes to onsite or area agriculture, recreation, land use plans, zoning or public policy. Therefore, there would be no impacts to resource use patterns. Under this alternative, properties will continue to be subject to local land use and zoning regulations.

C. ALTERNATIVE 3: ENTERPRISE PROPERTIES INTO TRUST

Alternative 3 involves placing the Nation's Enterprise Properties in Seneca Falls and Union Springs into trust. The subject parcel in the Town of Springport would not be placed into federal trust. Under this alternative, 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, per Alternative 1: Proposed Action. No changes are proposed that would affect existing resource use patterns as described in Section 3.11, "Resource Use Patterns." The local land use and zoning requirements that currently apply to the Nation's lands would no longer apply to the subject Enterprise Properties if the land is placed into trust. Environmental baseline conditions would continue to exist on the non-Enterprise property in the Town of Springport, as discussed under Alternative 2.

Under this alternative, once the affected properties are placed into trust, the properties in the Town of Seneca Falls and the Village of Union Springs will be subject to land use regulation by the Nation pursuant to the Nation's Land Use Ordinance, CN-2003-01. As with the Proposed Action, the application of this ordinance and the continued jurisdiction of federal authorities as discussed above, under Alternative 1, is expected to ensure the health, safety and welfare of the Nation and the surrounding communities. Therefore, there would be no significant impacts to resource use patterns as a result of the Enterprise Properties into Trust Alternative.

D. CUMULATIVE IMPACTS

At this time the BIA is not aware of any proposed future fee-to-trust applications by the Cayuga Nation, although it is considered to be possible. Should future fee-to-trust applications occur and if those lands were brought into trust, the local governments would no longer have jurisdiction over land use plans and zoning for the applicable Cayuga Nation properties. The Congressional support for providing tribes a suitable landbase is documented within the 25 USC 465 provisions which necessitate jurisdictional changes to comply with the law. Jurisdictional impacts for fee-to-trust applications are subject to review under the 25 CFR 151 process implementing 25 USC 465 for such applications. Should future fee-to-trust applications occur, jurisdictional impacts will be considered according to these procedures. Jurisdictional impacts of each proposed action are considered in the review process required by this regulation. Therefore, cumulative jurisdictional impacts under the Nation's proposed alternative and the Enterprise Properties Alternative are not considered significant. No cumulative jurisdictional impacts are anticipated from the No Action Alternative.