



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

**FEB 17 2023**

The Honorable Ray Halbritter  
Nation Representative, Oneida Indian Nation  
5218 Patrick Road  
Verona, New York 13478

Dear Representative Halbritter:

On February 15, 2015, the Oneida Indian Nation (Nation)<sup>1</sup> submitted a request to the Department of the Interior (Department) for the trust acquisition of approximately 270 acres of land located within the Nation's Reservation, in Madison County and Oneida County, New York, for gaming and other purposes.<sup>2</sup> The land is comprised of sixteen parcels that are owned in fee by the Nation. The Nation currently operates four gaming facilities on the land and intends no change in use.<sup>3</sup>

We have completed our review of the Nation's application, the Regional Director's Findings of Fact, and the documentation in the record. As discussed below, I determine that the sixteen parcels will be acquired in trust for the benefit of the Nation for gaming and other purposes pursuant to Section 5 of the Indian Reorganization Act (IRA), 25 U.S.C. § 5108. Once acquired in trust, the Nation may continue to conduct gaming on the parcels pursuant to Section 20 of the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2719(a)(1).

## **Background**

The Nation submitted its initial fee-to-trust application in response to the March 29, 2005, decision of the U.S. Supreme Court in *City of Sherrill v. Oneida Indian Nation of New York*.<sup>4</sup> In *City of Sherrill*, the Supreme Court ruled that the Nation could not unilaterally assert tribal tax immunity over land within its reservation to prevent a local government from assessing real property taxes on lands that the Nation re-acquired two centuries after they had last been possessed by the Nation. The Supreme Court instructed that the "proper avenue" for the Nation "to reestablish sovereign authority over" the land is by a fee-to-trust

<sup>1</sup> See Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, 87 Fed. Reg 4636, 4638 (January 28, 2022).

<sup>2</sup> See Memorandum, Proposed Findings of Facts and Conclusions for Oneida Nation of New York Fee-to-Trust Land Acquisition Application from Regional Director, Eastern Region to Assistant Secretary – Indian Affairs at 1 (September 30, 2022) (hereinafter Regional Director's Findings of fact). The Nation subsequently withdrew from consideration three parcels (OIN Parcel Numbers 95, 125, and 219). Parcels 95 and 125 were withdrawn on November 18, 2015. Parcel 219 was withdrawn on February 21, 2022. On August 20, 2021, the Nation submitted an additional application for trust acquisition of an additional 59 parcels of land, of which 3 (OIN Parcel Number 363, 364, and 384) are for gaming purposes. On November 3, 2021, the Nation requested the Department consolidate the 2015 and 2021 gaming applications into a single administrative record and decision for the pending sixteen gaming parcels. Letter from Ray Halbritter, Nation Representative, Oneida Indian Nation, to Paula L. Hart, Director, Office of Indian Gaming, dated November 3, 2021.

<sup>3</sup> Regional Director's Findings of Fact at 5.

<sup>4</sup> *City of Sherrill*, 544 U.S. 197 (2005).

application to the Secretary of the Interior pursuant to Section 5 of the IRA and the Department's implementing regulations at 25 C.F.R. Part 151.<sup>5</sup>

On May 20, 2008, the Department issued a decision on the Nation's 2005 application for trust acquisition of land within the Nation's Reservation and accepted approximately 13,000 acres of land in trust for the Nation.<sup>6</sup> However, the land was not taken into trust pending the outcome of several lawsuits filed in federal district court by numerous parties, including the State of New York, Madison County, Oneida County, several New York cities and towns, and private parties.<sup>7</sup>

New York State, as well as Madison County and Oneida County, withdrew from the litigation after reaching a settlement with the Nation that addresses taxation, jurisdiction, and other long-standing issues.<sup>8</sup> Section VI.B of the 2013 Settlement Agreement provides that if the Nation submits fee-to-trust applications for additional land, the State of New York, Madison County, and Oneida County agree to support the Nation's applications.<sup>9</sup> The United States was not a party to the 2013 Settlement Agreement. The 13,000 acres subject to the 2008 Decision were taken into trust in 2014. The Nation filed its pending fee-to-trust application in February 2015.

Plaintiffs who were not party to the 2013 Settlement Agreement continued to litigate. In March 2015, the Federal District Court granted summary judgment in favor of the United States on all remaining claims.<sup>10</sup> Finally, in 2016, the Second Circuit affirmed the holding of the District Court in favor of the United States.<sup>11</sup>

### **Description of the Property**

The land is comprised of sixteen parcels totaling approximately 270 acres located in Madison County and Oneida County, New York, and are within the boundaries of the Nation's Reservation established in Article II of the 1794 Treaty of Canandaigua. The parcels are owned in fee simple by the Nation.<sup>12</sup>

Table 1 (page 3) contains the location, tax number, and approximate acreage of the parcels which are grouped into four properties.

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<sup>5</sup> *City of Sherrill* at 221.

<sup>6</sup> See Record of Decision ("2008 ROD") Oneida Indian Nation Fee-to-Trust Request (May 20, 2008), Vol. II Exhibit 6.

<sup>7</sup> See *Upstate Citizens for Equality, Inc. v. United States*, No. 5:08-cv-633 (N.D.N.Y., filed June 16, 2008); and *Town of Verona v. Salazar*, No. 6:08-cv-647 (N.D.N.Y., filed June 19, 2008).

<sup>8</sup> Settlement Agreement by the Oneida Nation, the State of New York, the County of Madison & the County of Oneida (May 16, 2013) *hereinafter* "2013 Settlement Agreement." Vol. I, Tab 1.

<sup>9</sup> 2013 Settlement Agreement at 14. OIN Parcel Numbers 75-81 and 87, were included in the Nation's 2005 Application but were excluded from the 13,000 acres acquired in trust pursuant to the 2008 Decision.

<sup>10</sup> See *Town of Verona v. Salazar*, No. 6:08-cv-647, 2009 WL 3165556 (N.D.N.Y. 2009); *Upstate Citizens for Equality. Jewell*, No. 5:08-cv-0633, 2015 WL 1399366 (2015).

<sup>11</sup> *Upstate Citizens for Equality, Inc. Et al. V. United States et al.*, 841 F.3d 556 (2<sup>nd</sup> Cir. 2016).

<sup>12</sup> Regional Director's Findings of Fact at 1-2.

*Table 1*  
*Oneida Nation of New York Gaming Parcels*

<b>BIA Parcel Count</b>	<b>OIN Parcel No.</b>	<b>Location</b>	<b>City/Town/Village</b>	<b>County</b>	<b>Tax Map No.</b>	<b>Acres</b>
<b>SavOn Canastota – (+/- 131 acres)</b>						
1	75	N. Peterboro St.	Village of Canastota	Madison	36.5-1-20	0.490
2	76	N. Peterboro St.	Village of Canastota	Madison	36.6-1-1	33.569
3	77	Roberts St.	Village of Canastota	Madison	36.6-1-3	3.400
4	78	Bruno Rd.	Village of Canastota	Madison	36.6-1-4	25.440
5	79	N. Peterboro St.	Village of Canastota	Madison	36.38-1-32	0.500
6	80	N. Peterboro St.	Village of Canastota	Madison	36.38-1-34	0.150
7	81	Route 13	Town of Lenox	Madison	36.-3-2	66.894
8	87	N. Peterboro St.	Village of Canastota	Madison	36.38-1-33	0.504
<b>Yellow Brick Road Casino – (+/- 37.8 acres)</b>						
9	343	Genesee St.	Town of Sullivan/ Village of Chittenango	Madison	48.8-1-1.1	11.44
10	344	Genesee St.	Town of Sullivan/ Village of Chittenango	Madison	48.8-1-2	17.824
11	345	Genesee St.	Town of Sullivan/ Village of Chittenango	Madison	48.8-1-1.3	0.810
12	346	Tom Tom St.	Town of Sullivan/ Village of Chittenango	Madison	40.20-1-40	6.41
13	347	Route 5	Town of Sullivan	Madison	48.-1-7.112	1.300
<b>Point Place Casino – (+/- 101 acres)</b>						
14	363	Bridgeport Kirkville Rd	Town of Sullivan	Madison	8.-2-34.1	8.158
15	364	Bridgeport Kirkville Rd	Town of Sullivan	Madison	8.-2-44 & 8.-2-45	91.260 & 0.778
<b>The Lake House – (+/- .6 acres)</b>						
16	384	Park Avenue	Vienna	Oneida	252.007-5- 25	0.616
<b>Total Acres</b>						<b>269.543</b>

Enclosure II contains a full legal description of the sixteen parcels.

## The Indian Gaming Regulatory Act

Congress through IGRA recognized Indian Tribes' inherent and exclusive right to regulate and conduct gaming activity on Indian lands,<sup>13</sup> which are defined, in pertinent part, as "all lands within the limits of any Indian reservation."<sup>14</sup> This definition includes all lands within the boundaries of an Indian Tribe's Reservation, including lands owned in fee simple.<sup>15</sup> Section 20 of IGRA prohibits Tribes from conducting gaming on lands acquired in trust after October 17, 1988, with exceptions for lands located within or contiguous to the boundaries of the reservation of an Indian Tribe on October 17, 1988 (on-reservation exception).<sup>16</sup>

The Department's regulations at 25 C.F.R. Part 292 set forth procedures for implementing Section 20 of IGRA. Lands are eligible for gaming pursuant to the on-reservation exception if the Tribe had a reservation on October 17, 1988, and if the lands are located within or contiguous to the boundaries of the reservation.<sup>17</sup>

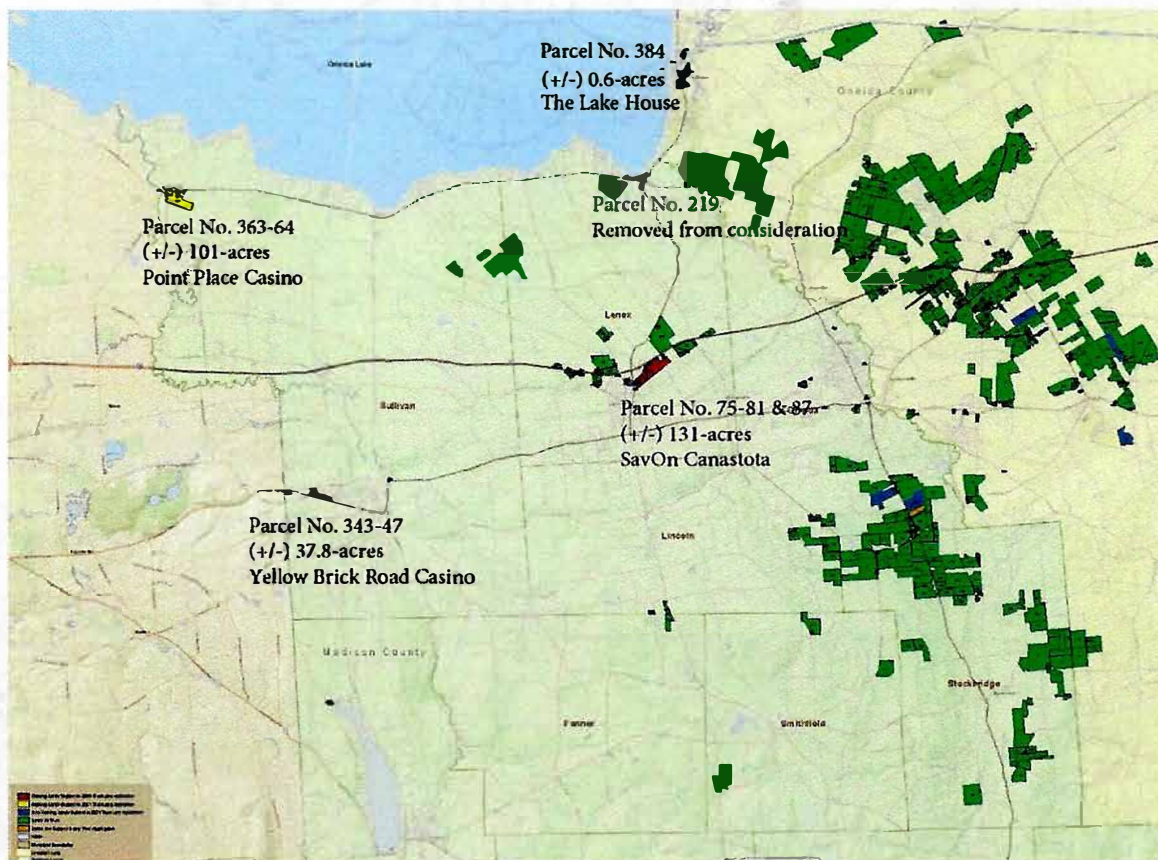


Figure 1 – Oneida Indian Nation Lands Into Trust Acquisition Map

<sup>13</sup> See 25 U.S.C. § 2701(5).

<sup>14</sup> 25 U.S.C. § 2703(4)(A).

<sup>15</sup> See e.g., Letter from Roger W. Thomas, Office of the Solicitor, to Mr. Donald C. Kittson, Tribal Attorney, Blackfoot Tribe, dated December 3, 1990 (on file with the Office of Indian Gaming).

<sup>16</sup> 25 U.S.C. § 2719 (a)(1).

<sup>17</sup> 25 C.F.R. § 292.4(a). The Department's regulations define "reservation" as "[l]and set aside by the United States by final ratified treaty, agreement, Executive Order, Proclamation, Secretarial Order or Federal statute for the [T]ribe, notwithstanding the issuance of any patent." 25 C.F.R. § 292.2.

As stated, the Nation's Reservation was established by treaty in 1794 and remains intact.<sup>18</sup> The Nation's Reservation encompasses portions of Madison County and Oneida County and is depicted in "Exhibit I" of the 2013 Settlement Agreement. A copy of the "Exhibit I" map is included in Enclosure I of this decision. All sixteen parcels are located within the boundaries of the Nation's Reservation. Figure 1 shows the approximate location of the parcels within Madison County and Oneida County.

For the purposes of an Indian lands analysis under IGRA, the Department is not required to determine whether an Indian Tribe possesses or exercises jurisdiction over the subject parcels when located on-reservation, irrespective of their trust status.<sup>19</sup> As the Second Circuit Court of Appeals noted in *Cayuga v. Tanner*, "IGRA preempts all state and local legislation and regulation relating to gambling conducted on 'Indian lands,' as defined in that statute."<sup>20</sup> The IGRA defines *Indian lands* to include "all lands within the limits of any Indian reservation."<sup>21</sup> Because IGRA preempts state and local regulation of an Indian Tribe's gaming activity on its Indian lands, it necessarily preserves a Tribe's inherent sovereign authority and jurisdiction over the conduct of gaming on its reservation.<sup>22</sup> Therefore, there can be no question that the Nation has jurisdiction over gaming on those parcels.<sup>23</sup>

I therefore conclude, that because the sixteen parcels are within the Nation's Reservation, the requirements of the Department's regulations at Part 292 are satisfied, and the Nation may continue to conduct gaming pursuant to IGRA regardless of the trust status of the parcels.

### **Trust Acquisition Determination Pursuant to 25 C.F.R. Part 151**

The Secretary of the Interior's authority for acquiring the sixteen parcels in trust is found in Section 5 of the IRA.<sup>24</sup> The Department's land acquisition regulations at 25 C.F.R. Part 151, set forth the procedures for implementing Section 5.

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<sup>18</sup> See e.g. *Oneida Indian Nation of N.Y. v. Madison County*, 665 F.3d 408, 443-44 (2d Cir. 2011).

<sup>19</sup> See *Cayuga Nation v. Tanner*, 6 F.4th 361, 378 (2<sup>nd</sup> Cir. 2021) ("the relevant definition of 'Indian lands' contains no requirement that a Tribe exercise jurisdiction or other governmental power over reservation property."); cf. *Club One Casino, Inc. v. Bernhardt*, 959 F.3d 1142, 1150 (9<sup>th</sup> Cir. 2020) ("We decline to read into IGRA unnecessary requirements demanded neither by law nor logic.").

<sup>20</sup> *Tanner*, 6 F.4th at 377.

<sup>21</sup> 25 U.S.C. § 2703(4)(A).

<sup>22</sup> See *Cayuga Nation v. Tanner*, 448 F. Supp. 3d 217, 243 (N.D.N.Y. 2020), *aff'd* 6 F.4th 361 (2<sup>nd</sup> Cir. 2021), (rejecting as dicta the Second Circuit's proposition that the Nation can only exercise tribal jurisdiction over casino land once it is in trust. *Upstate Citizens*, 841 F.3d 556, 566 (2<sup>nd</sup> Cir. 2016)).

<sup>23</sup> In the 2013 Settlement Agreement, the State and local governments relinquished concurrent jurisdiction claims relating to taxation, land use, building codes, zoning, health and safety and environmental matters, and weights and measures over the Nation's fee land within the Nation's Reservation. See e.g. 2013 Settlement Agreement at 13-15.

<sup>24</sup> Act of June 18, 1934, ch. 576, § 5, 48 Stat. 984 ("IRA") (codified at 25 U.S.C. § 5108) ("The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.").

*25 C.F.R. § 151.3 - Land acquisition policy*

Section 151.3(a) sets forth the conditions under which land may be acquired in trust by the Secretary for an Indian Tribe:

- (1) When the property is located within the exterior boundaries of the Tribe's reservation<sup>25</sup> or adjacent thereto, or within a tribal consolidation area; or
- (2) When the Tribe already owns an interest in the land; or
- (3) When the Secretary determines that the acquisition of the land is necessary to facilitate Tribal self-determination, economic development, or Indian housing.

Although only one factor in Section 151.3 must be met, the Nation's application satisfies all three factors. The criteria of subsection (a)(1) are satisfied because the sixteen parcels are located within the exterior boundaries of the Nation's Reservation. Subsection (a)(2) is satisfied because the Nation owns the sixteen parcels in fee.<sup>26</sup> The Nation also satisfies the requirements of subsection (a)(3) because acquisition of the sixteen parcels will facilitate tribal self-determination and economic development.<sup>27</sup> Consistent with the Supreme Court's direction in *City of Sherrill*, the Department's acquisition of the sixteen parcels in trust reinforces the Nation's governmental authority over the parcels and facilitates the Nation's self-determination and economic development.

*25 C.F.R. § 151.10 - On-reservation acquisitions*

Section 151.10 requires the Secretary to evaluate requests for acquisition of land under the on-reservation criteria when the land is located within or contiguous to an Indian reservation. Here, the Regional Director determined, and I concur, that the Nation's application should be considered pursuant to the on-reservation criteria of Section 151.10 because the sixteen parcels are located within the Nation's Reservation.

*25 C.F.R. § 151.10(a) - The existence of statutory authority for the acquisition and any limitations contained in such authority*

Section 151.10(a) requires the Secretary to consider whether there is statutory authority for the trust acquisition, and if such authority exists, to consider any limitations contained in it including the effect, if any, of the decision in *Carcieri v. Salazar*.<sup>28</sup>

In 2014, the Solicitor of the Interior (Solicitor) memorialized the Department's understanding of the phrase "now under federal jurisdiction" in the IRA in light of *Carcieri*, in the Sol. Op. M-37029 (M-37029).<sup>29</sup> The Solicitor provided a two-part procedure to determine if a Tribe was under federal jurisdiction before 1934, and whether that jurisdictional status remained intact in 1934.<sup>30</sup> In 2021 the Solicitor withdrew the M-opinion 37055 and reinstated Solicitor M opinion 37029.<sup>31</sup> In both the withdrawn and current analysis,

<sup>25</sup> Section 151.2(f) defines "Indian reservation" to mean, in relevant part, that area of land over which the Tribe is recognized by the United States as having governmental jurisdiction.

<sup>26</sup> Regional Director's Findings of Fact at 3.

<sup>27</sup> Regional Director's Findings of Fact at 3.

<sup>28</sup> *Carcieri v. Salazar*, 555 U.S. 379 (2009) (hereinafter *Carcieri*).

<sup>29</sup> Sol. Op. M-37029, The Meaning of 'Under Federal Jurisdiction' for Purposes of the Indian Reorganization Act (Mar. 12, 2014) ("M-37029").

<sup>30</sup> M-37029 at 19.

<sup>31</sup> Sol. Op. M-37070, Withdrawal of Certain Solicitor M-Opinions, Reinstatement of Sol. Op. M37029 *The Meaning of 'Under Federal Jurisdiction' for the Purposes of the Indian Reorganization Act*, and Announcement Regarding

the Solicitor concluded that a Tribe's election under Section 18 of the IRA whether to adopt or reject application of the IRA unambiguously and conclusively establishes that the United States understood that this particular Tribe was under federal jurisdiction in 1934.<sup>32</sup>

The Nation voted to reject the IRA.<sup>33</sup> This is conclusive evidence that the Nation was under "under Federal Jurisdiction" in 1934 and the Secretary is authorized to acquire land in trust for the Nation under Section 5 of the IRA.

*25 C.F.R. § 151.10(b) - The need of the individual Indian or Tribe for additional land*

Section 151.10(b) provides that the Secretary will consider a Tribe's need for additional land when reviewing a Tribe's request to have land acquired in trust.

The sixteen parcels are within the boundaries of the Nation's approximately 300,000-acre Reservation in New York State. The Nation currently has approximately 13,000 acres of land in trust in Oneida and Madison Counties. The Department's acquisition of the sixteen parcels in trust will restore a portion of the land lost within the Nation's Reservation and will secure it against alienation while protecting the Nation's investments,<sup>34</sup> thus facilitating the Nation's goal of self-determination and economic development.<sup>35</sup>

The Regional Director found, and I concur, that the Nation has established a need for additional land and the acquisition of the sixteen parcels in trust for the Nation will help address the Nation's need for additional land. In addition, placing the land into trust is consistent with the Supreme Court's recommendation in *City of Sherrill* that placing the land into trust under Section 5 of the IRA "provides the proper avenue for [the Nation] to reestablish sovereign authority over territory last held by the Oneidas 200 years ago."<sup>36</sup>

*25 C.F.R. § 151.10(c) - The purpose for which the land will be used*

Section 151.10(c) requires consideration of the purposes for which the land will be used. As discussed above, the Nation currently owns and operates four gaming establishments on the sixteen parcels, as well as other economic enterprises. The Nation will continue these existing uses after the sixteen parcels are acquired in trust.

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Consultation on "Under Federal Jurisdiction" Determinations, dated April 27, 2021, which withdraws Sol. Op. M-37055, and reinstates M-37029.

<sup>32</sup> M-37029 at 20.

<sup>33</sup> Amendment to the May 20, 2008 Record of Decision for Oneida Indian Nation of New York Fee-to-Trust Request, December 23, 2013. Vol. II, Exhibit 7.

<sup>34</sup> In *City of Sherrill*, 544 U.S. 197 (2005), the Supreme Court ruled that the Oneida Indian Nation could not unilaterally assert tribal tax immunity to prevent a local government from assessing real property taxes on lands that the Nation re-acquired two centuries after they had last been possessed by the Oneidas. The Supreme Court instructed that the "proper avenue" for the Nation "to reestablish sovereign authority over" the lands is by a fee-to-trust application to the Secretary of the Interior pursuant to 25 U.S.C. § 5108 and the Department's implementing regulations at 25 C.F.R. Part 151. *City of Sherrill*, 544 U.S. at 221.

<sup>35</sup> Regional Director's Findings of Fact at 3.

<sup>36</sup> *City of Sherrill* at 221.

*25 C.F.R. § 151.10(e) - If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of land from the tax rolls*

Section 151.10(e) requires consideration of the impact on the State and its political subdivisions resulting from removal of land from the tax rolls. As required by the Department's regulations, on November 9, 2015, and May 2, 2022, the Eastern Regional Office of the Bureau of Indian Affairs (Eastern Region or BIA) solicited comments pursuant to Sections 151.10(e) (Property Tax) and 151.10(f) (Jurisdictional Problems and Potential Conflicts of Land Use).

Following is the list of governmental entities that received consultation letters from the BIA:

- State of New York
- Madison County
- Oneida County
- City of Oneida
- City of Sherrill
- Town of Lenox
- Town of Sullivan
- Town of Vernon
- Village of Canastota
- Village of Chittenango
- Canastota Central School district
- Chittenango Central School district
- Oneida City School District
- Vernon-Verona-Sherrill Central Schools<sup>37</sup>

As explained below, the 2013 Settlement Agreement addresses taxation of the Nation's land, therefore the transfer of approximately 270 acres into trust will have no impact on the State and its political subdivisions. The BIA received no response from the State of New York. Eight responses were received by the BIA from the following local governments: Madison County, City of Oneida, City of Sherrill, Town of Sullivan, Village of Canastota, Village of Chittenango, and Chittenango Central School District.<sup>38</sup> The Nation was provided a copy of the comments received and responded to the comments in March 2016.<sup>39</sup> None of the responses objected to placing the sixteen parcels into trust because of the impact of the removal of the sixteen parcels from the tax rolls. The comments received reflect that there is no property tax assessed on the sixteen parcels.

The transfer of the sixteen parcels into trust and their removal from the tax rolls will have no impact on the State and its political subdivisions because the 2013 Settlement Agreement is clear about the non-taxability of the Nation's lands, including land reacquired after 2013. Section V.E.1 of the 2013 Settlement Agreement provides that "Nation land shall be non-taxable and the Nation shall not be liable to the State or any municipal subdivisions of the State for any past, present or future property tax payment with regard to Nation Land."<sup>40</sup>

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<sup>37</sup> See Regional Director's Findings of Fact at 5, 6. Vol. II, Exhibits 3a-h.

<sup>38</sup> See Regional Director's Findings of Fact at 6. Vol. II, Exhibits 3a-h.

<sup>39</sup> See Letter dated March 4, 2016, from Michael R. Smith, Zuckerman Spaeder, LLP, to Bruce Maytubby, Regional Director, Eastern Region, BIA ("Nation's Response to Comments"). Vol. II, Exhibit 4.

<sup>40</sup> 2013 Settlement Agreement at 11.



The 2013 Settlement Agreement also provided for the Nation to make financial contributions to the State and the two Counties in consideration for certain undertakings by the State and the two Counties. The 2013 Settlement Agreement provides that “[t]he Counties’ share of all these payments is in full satisfaction of all existing tax liens that they claim against the Nation and in full satisfaction of tax revenues of any kind that the Counties will not receive from the Nation in the future under the terms of this Agreement.”<sup>41</sup>

Therefore, the Department’s acquisition of the sixteen parcels in trust will have no impact on the State and its political subdivisions resulting from removal of the land from the tax rolls because the land has already been removed from the tax rolls as “Nation Land” under the 2013 Settlement Agreement. Further, the Department’s trust acquisition of the sixteen parcels is necessary under *City of Sherrill* to perfect the Nation’s tribal tax immunity over its lands within the Nation’s Reservation.

*25 C.F.R. § 151.10(f) - Jurisdictional problems and potential conflicts of land use which may arise*

Section 151.10(f) requires consideration of jurisdictional problems and potential conflicts of land use which may arise if the land is acquired in trust. As discussed in Section 151.10(e) above, the BIA requested comments regarding jurisdictional problems and potential conflicts of land use from the State and local governments. Only the Town of Sullivan raised concerns regarding conflicts of land use and jurisdiction.<sup>42</sup> As explained below, the transfer of the approximately 270 acres into trust will have a minimal impact on the State and its political subdivisions.

Land within the Nation’s Reservation is subject to multiple jurisdictions operating within the same area, depending on the ownership status of the land and/or the identity of the individual or entity involved. Transferring title of land into trust resolves potential conflicts of overlapping jurisdiction raised by *City of Sherrill*. Land held in trust for the Nation is subject exclusively to the jurisdiction of the United States and the Nation.

The 2013 Settlement Agreement outlines the jurisdictional framework agreed to between the Nation, the State, Madison County, and Oneida County. It provides that all lands held by the Nation at the time of the 2013 Settlement Agreement, or later reacquired land owned in fee by the Nation, will be treated as Nation Land<sup>43</sup> and under the Nation’s land use jurisdiction.<sup>44</sup> In addition, the 2013 Settlement Agreement requires Oneida County to enter into a deputization agreement with the Oneida Nation Police to enhance public safety and to improve the coordination of police services.<sup>45</sup> The Regional Director’s Findings of Fact mention that the Oneida Nation Police Department maintains a staff of approximately 35 sworn officers who hold special law enforcement commissions with the BIA’s Office of Justice Services, and provide law

<sup>41</sup> 2013 Settlement Agreement at 5.

<sup>42</sup> See Letter dated January 11, 2016, to Eastern Regional Director, BIA, from John Langey, Costello, Cooney & Fearon, PLLC, on behalf of the Town of Sullivan. The Town recommends that the Department take a *de novo* “hard look” with respect to potential negative impacts on the Town of Sullivan because the extensive lapse of time and change of circumstances since the adoption of the 2008 ROD and the effect of “checkerboarding” of jurisdiction regarding potential trust lands within the Town. Vol. II, Exhibit 3g.

<sup>43</sup> The term “Nation Land” is defined in the 2013 Settlement Agreement to mean “land possessed by the Nation within the exterior boundaries of the Reservation and that (i) is the 32-acre (more or less) *Boylan* tract, (ii) is the 104-acre (more or less) *Marble Hill* tract, (iii) that is held in trust by the United States or any of its agencies for the benefit of the Nation or (iv) Reacquired Land that is within the cap as defined in Section VI(B)(4) of this Agreement. Reacquired Land that exceeds the Cap defined in (Section (VI)(B)(4) of this Agreement is not Nation Land as the term is defined herein. 2013 Settlement Agreement at 3.

<sup>44</sup> 2013 Settlement Agreement at 15.

<sup>45</sup> 2013 Settlement Agreement at 15.

enforcement services on tribal trust property to the Nation's members.<sup>46</sup> Finally, even before the 2013 Settlement Agreement, jurisdictional issues for some of the properties were thoroughly evaluated in the 2008 ROD and found not to be significant.

The Department's acquisition of the sixteen parcels in trust will not result in jurisdictional problems and potential conflicts of land use, because the land has already been removed from State and local land use jurisdiction as "Nation Land" under the 2013 Settlement agreement. Further, the Department's trust acquisition of the sixteen parcels is consistent with the Supreme Court's direction in *City of Sherrill* and solidifies the Nation's sovereign jurisdiction over the Nation's Reservation. The Regional Director's Findings of Fact conclude that there are no outstanding problems or potential conflicts of land use resulting from acquiring the land into trust for the Nation, and I concur in that finding.<sup>47</sup>

*25 C.F.R. § 151.10(g) - If the land to be acquired is in fee status whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status*

Section 151.10(g) requires consideration whether the BIA is equipped to discharge the additional responsibilities resulting from acquisition of the land in trust.

The Regional Director found that accepting the sixteen parcels into trust should not impose any significant additional responsibilities or burdens on the level of trust services currently being provided by the BIA. I concur in the Regional Director's determination.<sup>48</sup>

*25 C.F.R. § 151.10(h) - The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations*

Section 151.10(h) requires the Secretary to consider the availability of information necessary for compliance with the National Environmental Policy Act (NEPA),<sup>49</sup> and a determination of the risk of the presence of hazardous substances.

Acquiring land in trust for Tribes is a major federal action requiring review under NEPA.<sup>50</sup> If the federal action belongs to a category of actions which do not individually or cumulatively have a significant effect on the human environment it can be categorically excluded from further analysis.<sup>51</sup>

Pursuant to Department policy, where no change in land use will occur as a result of the acquisition, the acquisition is subject to a categorical exclusion.<sup>52</sup> Here, there will be no change in land use because the Nation intends to continue the existing uses on the sixteen parcels.<sup>53</sup> On April 22, 2022, the BIA issued a Categorical Exclusion for the sixteen parcels.<sup>54</sup>

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<sup>46</sup> Regional Director's Findings of Fact at 7.

<sup>47</sup> Regional Director's Findings of Fact, 7-8.

<sup>48</sup> Regional Director's Findings of Fact at 8-9.

<sup>49</sup> 42 U.S.C. § 4321 *et seq.*

<sup>50</sup> See 40 C.F.R. § 1508.1(q).

<sup>51</sup> 40 C.F.R. § 1501.4(a); 43 C.F.R. § 46.205.

<sup>52</sup> See 516 DM 10.5(I), 83 Fed. Reg. 9535, 9537 (Mar. 6, 2018).

<sup>53</sup> Regional Director's Findings of Fact at 9.

<sup>54</sup> Vol. II, Exhibits 8a-b.

The BIA completed Phase I Environmental Site Assessments for the sixteen parcels with site inspections conducted on August 24, 2022, which determined that no contaminants or other environmental problems were present on the sixteen parcels and there were no obvious signs of any effects of contamination.<sup>55</sup> This fulfills the requirements of 602 DM 2. I find the Nation's application satisfies the requirements of this section.

### **Decision to Approve the Nation's Fee-to-Trust Application**

Pursuant to Section 5 of the IRA, 25 U.S.C. § 5108, the Department will acquire the sixteen parcels in trust for the Nation. Furthermore, I have determined the Nation may continue to conduct gaming on the sixteen parcels pursuant to Section 20 of IGRA, 25 U.S.C. § 2719(a)(1). Consistent with applicable law and the Departmental requirements, the Regional Director shall immediately acquire the land in trust. This decision constitutes a final agency action pursuant to 5 U.S.C. § 704.

Sincerely,



Wizipan Garriott  
Principal Deputy Assistant Secretary – Indian Affairs  
Exercising by delegation the authority of the  
Assistant Secretary – Indian Affairs

Enclosures:

- I. Maps
- II. Legal Description
- III. Categorical Exclusion Exception Review

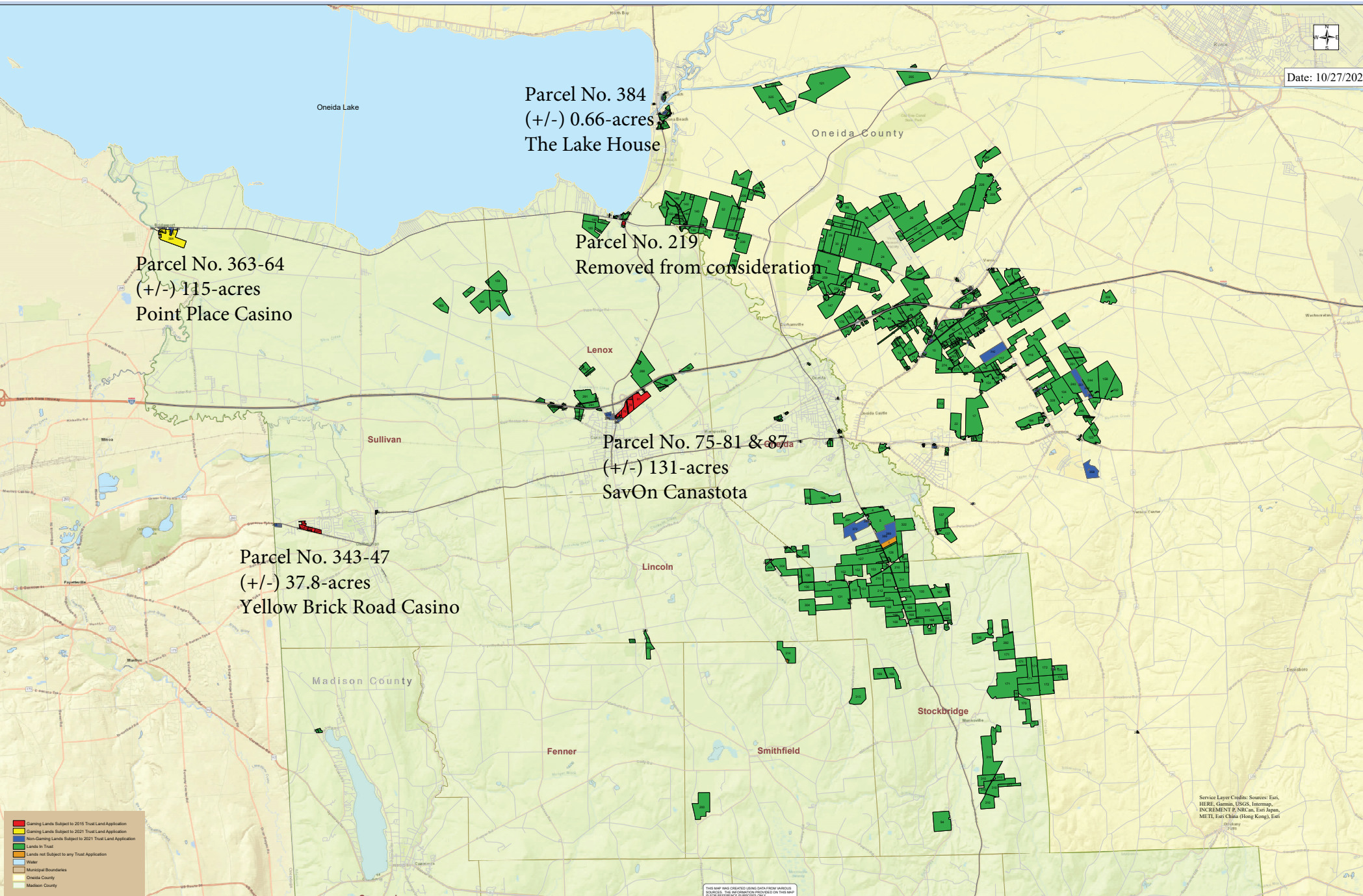
cc: Regional Director, Eastern Region

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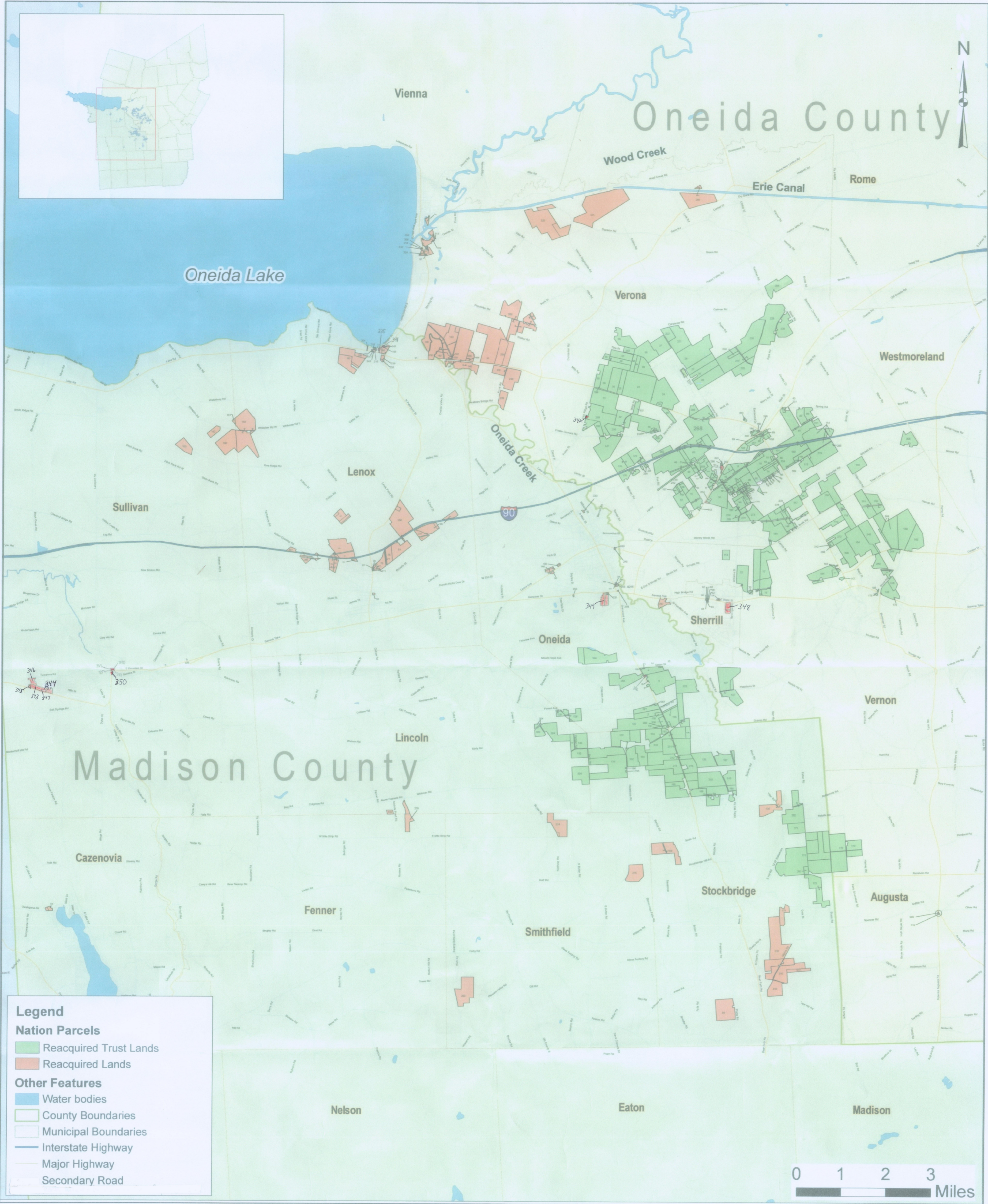
<sup>55</sup> Vol. II, Exhibits 8a-b.

# **ATTACHMENT I**

## **MAPS**



# ONEIDA INDIAN NATION LANDS INTO TRUST ACQUISITION MAP



# Oneida County



# Madison County

Map labels include: Vienna, Wood Creek, Erie Canal, Rome, Verona, Westmoreland, Sullivan, Lenox, Oneida Creek, Sherrill, Oneida, Vernon, Lincoln, Cazenovia, Fenner, Smithfield, Stockbridge, August, Nelson, Eaton, and Madison.

# **ATTACHMENT II**

## **LEGAL DESCRIPTION**

## **Attachment II – Legal Descriptions**

Tax Map Number

36.5-1-20

36.6-1-1

36.6-1-3

36.6-1-4

36.38-1-32

36.38-1-34

36.-3-2

36.38-1-33

48.8-1-1.1

48.8-1-2

48.8-1-1.3

40.20-1-40

48.-1-7.112

8.-2-34.1

8.-2-44

8.-2-45

252.007-5-25



Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

# LEGAL DESCRIPTION EXHIBIT A

**Tract ID:**

**Tract Name: OIN PARCEL 75- 81**

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
<u>Lot</u>	<u>Block</u>	<u>Sub Division</u>	<u>USS</u>	<u>State</u>	<u>County</u>	<u>Acres</u>
99	99		99	NEW YORK	MADISON	130.595

DESCRIPTION: ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Canastota and Town of Lenox, County of Madison and State of New York, being part of Lot Number 83, 84, 86, 87 and 88 of the Canastota Tract, bounded and described as follows: TAX MAP# 36.5-1-20, TAX MAP# 36.6-1-1, TAX MAP# 36.6-1-3, TAX MAP# 36.6-1-4, TAX MAP# 36.38-1-32, TAX MAP# 36.38-1-34 and TAX MAP# 36.-3-2 PARCEL A Beginning at an iron pin on the easterly highway boundary of North Peterboro Street (New York State Route #13), said iron pin standing at the intersection of the easterly highway boundary of North Peterboro Street with the northerly boundary of Albert W. Tucci and George Tucci (Now or Formerly), as described in a Warranty Deed dated June 20, 1988 and filed in the Madison County Clerk's Office in Liber 863 of Deeds at page 278; thence N 09°23'58" W 66.69 feet along the easterly highway boundary of North Peterboro Street to a point standing on the southerly boundary of Richard G. Clark and Donald E. Clark (Now or Formerly); thence N 77°58' 02" E 8.10 feet along the southerly boundary of Clark to an iron pin; thence N 53° 12' 02" E 143.90 feet continuing along the southerly boundary of Clark to an iron pin standing on the easterly boundary of Clark; thence N 08°31'58" W 72.15 feet along the easterly boundary of Clark to an iron pin; thence N 22°35'58" W 140.45 feet continuing along the easterly boundary of Clark to a concrete monument standing on the southerly highway boundary of the lands of the New York State Thruway; thence N 46°42'00" E 1151.00 feet along the southerly highway boundary of the lands of the New York State Thruway to a point; thence N 37°34'00" E, 525.37 feet continuing along the southerly highway boundary of the lands of the New York State Thruway to a point; thence N 11°30'00" E 465.37 feet to a concrete monument; thence N 24°00'50" E 278.68 feet to a concrete monument; thence N 36°03'25" E 1.06 feet still along the southerly highway boundary of the lands of the New York State Thruway to a point standing on the westerly boundary of the lands of the Niagara Mohawk Power Corporation (Reputed Owner) (Adirondack Power & Light Corporation - Formerly); thence S 06°36'20" E 1805.51 feet along the westerly boundary of the lands of the Niagara Mohawk Power Corporation to an iron pin standing on the northerly boundary of the lands of the Canastota Central School District (Reputed Owner); thence S 52°30'43" W 804.51 feet along the northerly boundary of the lands of the Canastota Central School District to an iron pin standing on the easterly boundary of Robert J. Regis (Now or Formerly); thence N 34°44'54" W 233.39 feet along the easterly boundary of Regis and then along the easterly boundary of Elizabeth Paver, Etal (Now or Formerly) to an iron pin standing on the northerly boundary of Paver; thence S 62°14'06" W 216.60 feet along the northerly boundary of Paver to an iron pin standing on the easterly boundary of Paver; thence N 29°59'54" W 169.50 feet along the easterly boundary of Paver to an iron pin standing on the northerly boundary of Paver; thence S 58°09'37" W 463.27 feet along the northerly boundary of Paver to an iron pin; thence S 74°23'02" W 34.68 feet continuing along the northerly boundary of Paver to an iron pin standing on the easterly boundary of Tucci; thence N 05°21'58" W 52.00 feet along the easterly boundary of Tucci to an iron pin standing on the northerly boundary of Tucci; thence S 80°06'02" W 142.56 feet along the northerly boundary of Tucci to the point and place of beginning. The above described parcel containing 34.7090 acres of land, more or less. PARCEL B Beginning at a point on the southerly highway boundary of the lands of the New York State Thruway, said point standing at the intersection of the southerly highway boundary of the lands of the New York State Thruway with the easterly boundary of the lands of Niagara Mohawk Power Corporation (Reputed Owner) (Adirondack Power & Light Corporation - Formerly), as described in a Full Covenant Deed dated August 25, 1925 and filed in the Madison County Clerk's Office in Liber 278 of Deeds at page 289; thence N 48°18'37" E 80.66 feet along the southerly highway boundary of the lands of the New York State Thruway to a point standing on the westerly boundary of the lands of Niagara Mohawk Power Corporation (Now or Formerly); thence S 06°36'20" E 61.10 feet along the westerly boundary of the lands of the Niagara Mohawk Power Corporation to a point; thence N 48°18'37" E 36.01 feet along the southerly boundary of the lands of the Niagara Mohawk Power Corporation to a point; thence N 47°15'57" E 214.01 feet continuing along the southerly boundary of the

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Office Codes: B,S,51,011 AD Number: 4200176806 Case: 15294

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCEL 75- 81

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
Lot	Block	Sub Division	USS	State	County	Acres

lands of the Niagara Mohawk Power Corporation to a point; thence N 51826'35" E 120.16 feet to a point; thence N 57841'16" E 1014.09 feet to a point; thence N 76816'05" E 398.07 feet still along the southerly boundary of the lands of the Niagara Mohawk Power Corporation to an iron pin standing on the westerly boundary of Michael Fusillo and Linda Fusillo (Now or Formerly); thence S 38840'27" E 447.93 feet along the westerly boundary of Fusillo to an iron pin standing on the southerly boundary of Fusillo; thence N 50819'34" E 594.66 feet along the southerly boundary of Fusillo to a corner fence post standing on the southerly boundary of Jeffrey L. Barley (Now or Formerly); thence N 51819'34" E 346 .25 feet along the southerly boundary of Barley and then along the southerly boundary of Robert P. Stager and Dianne M. Bunnell (Now or Formerly) to a point standing on the southerly boundary of the lands of the Niagara Mohawk Power Corporation (Reputed Owner) (Adirondack Power & Light Corporation - Formerly); thence N 76816'05" E 35.71 feet along the southerly boundary of the lands of the Niagara Mohawk Power Corporation to a point standing on the westerly boundary of Susan A. Giacobbi (Now or Formerly); thence S 39851'12" E 809.27 feet along the westerly boundary of Giacobbi to an iron pin standing on the northerly boundary of Giacobbi; thence S 51822'49" W 1327.18 feet along the northerly boundary of Giacobbi to a corner fence post standing on the easterly boundary of Giacobbi; thence N 39851'12" W 21.56 feet along the easterly boundary of Giacobbi to a corner fence post standing on the northerly boundary of Giacobbi; thence S 51805' 15" W 2170. 75 feet along the northerly boundary of Giacobbi, the northerly boundary of Robert J. and Frieda B. Phoenix (Now or Formerly) and thence along the northerly boundary of John V. and Nancy J. James (Now or Formerly) to a point; thence S 51851'34" W 151.14 feet to a point standing on the northerly boundary of Maude F. Wollaber (Now or Formerly); thence S 82826'28" W 106.97 feet along the northerly boundary of Wollaber to a point standing on the easterly boundary of the lands of the Niagara Mohawk Power Corporation (Reputed Owner) (Adirondack Power & Light Corporation - Formerly); thence N 05840'17" W 610.34 feet along the easterly boundary of the lands of the Niagara Mohawk Power Corporation to a point standing on the southerly boundary of the lands of the Niagara Mohawk Power Corporation; thence N 51851'34" E 11. 73 feet along the southerly boundary of the lands of the Niagara Mohawk Power Corporation to a point standing on the easterly boundary of the lands of the Niagara Mohawk Power Corporation; thence N 06836'20" W 1168.80 feet along the easterly boundary of the lands of the Niagara Mohawk Power Corporation to the point and place of beginning. The above described parcel containing 95. 734 acres of land, more or less. PARCEL C Beginning at a point on the southerly highway boundary of the lands of the New York State Thruway, said point standing at the intersection of the southerly highway boundary of the lands of the New York State Thruway with the northerly boundary of the lands of the Niagara Mohawk Power Corporation (Reputed Owner) (Adirondack Power & Light Corporation - Formerly), as described in a Full Covenant Deed dated October 7, 1924, and filed in the Madison County Clerk's Office in Liber 275 of Deeds at Page 49; thence N 57845'18" W 195.22 feet along the southerly highway boundary of the lands of the New York State Thruway to a point standing on the westerly boundary of Michael Fusillo and Linda Fusillo (Now or Formerly); thence S 38840'27" E 68.36 feet along the westerly boundary of Fusillo to a point standing on the northerly boundary of the lands of the Niagara Mohawk Power Corporation; thence S 76816' 05" W 213.94 feet along the northerly boundary of the lands of the Niagara Mohawk Power Corporation to the point and place of beginning. The above described parcel of land containing 0.152 acre of land, more or less.

Tract ID:

Tract Name: OIN PARCEL 87

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
Survey No.	Abstract	State	County	Acres		

WD AEA01



Office Codes: B,S,51,011 AD Number: 4200196806 Case: 15274

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCEL 87

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK	Both (Mineral and Surface)
Survey No.	Abstract	State	County	Acres		
MADISON TWP		NEW YORK	MADISON	.504		

DESCRIPTION: EXHIBIT A ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Canastota, County of Madison and State of New York, lying on the east side of North Peterboro Street and being a part of Lot No. 83 of the Canastota Tract, bounded and described as follows, to wit: Beginning at an iron stake on the east side of said street 66.40 feet north of an iron stake in the southwest corner of the homestead lot of Wallace E. Heintz; and running thence N. 78° 47' E. a distance of 8.10 feet to an iron stake; thence running N. 54° 01' E. a distance of 143.90 feet to an iron pipe in the southeast corner of the village lot formerly owned by Ralph Balducci; thence running N. 7° 43' W. along the east line of said Balducci lot 72.15 feet to an iron stake in the northeast corner of said Balducci lot; thence running N. 21° 47' W. a distance of 140.45 feet to a concrete monument in the southerly line of the State of New York Thruway lands; thence running S. 20° 39' W. along said State lands 161.02 feet to a concrete monument; thence running S. 82° 48' W. along said State lands 26.50 feet to the east line of said North Peterboro Street; thence S. 8° 36' E. along said east line 135.63 feet to the place of beginning. The premises hereby conveyed are a part of the premises described in an Administrator's Deed from Julius Heintz, as Administrator of the goods, chattels and credits of Julius Heintz, deceased to Wallace E. Heintz, dated February 11, 1947 and recorded in Madison County Clerk's Office on February 17, 1947 in Uber 381 of Deeds at page 55. ALSO ALL THAT TRACT AND PARCEL OF LAND situated in the Village of Canastota, Madison County, New York, commencing at the intersection of the southwest corner of the premises of Michael G. Corbett, being the premises described in the first parcel in this deed, on the east line of North Peterboro Street and extending thence northerly 78° 47' east a distance of 8.1 feet; thence running southerly and parallel to the east line of Peterboro Street 18 feet to a point in the south line of the driveway formerly of Wallace Heintz; thence westerly and parallel to the first described line 8.1 feet to the east line of Peterboro Street; thence northerly along the east line of Peterboro Street 18 feet to the place of beginning, being the quantity of land more or less. This conveyance made in and by this paragraph is made for the purpose of enabling the grantees herein to use the said strip of land in common with Wallace Heintz for the purpose of ingress and egress only and the grantees shall have no other right or interest in and to the said parcel of land and at no time shall the grantees use the premises herein conveyed for parking or other purposes. The right to use the right of way in common shall not be restricted to the grantees or Wallace Heintz personally but is intended to include their agents, servants, employees, invitees, customers and clients; but the restriction as to the parking shall remain in full force and effect irrespective of the person using the same. The use of the above described right of way, as aforesaid, is likewise intended to inure to the benefit of the heirs at law, next of kin, assignees, devisees, grantees of the grantees herein and of Wallace Heintz. The premises herein conveyed are the same premises as were conveyed to Michael G. Corbett by the following deeds: deed from Wallace E. Heintz dated December 1, 1954, recorded in the Madison County Clerk's Office December 2, 1954, in Book of Deeds 503, at page 428; deed from Ralph Balducci and Gasper and Katherine Sicilia dated November 30, 1954, recorded in said Clerk's Office on December 2, 1954 in Book of Deeds 503 at page 418 as corrected by a deed dated December 21, 1954, recorded in said clerk's office on December 23, 1954 in Book of Deeds 504 at page 204; and by deed from Wallace Heintz and Dorothy T. Heintz dated January 10, 1955, recorded in said Clerk's Office on January 11, 1955 in Book of Deeds 504, at page 449. SUBJECT to any easements, covenants or restrictions of record. BEING the same premises as described in a Warranty Deed from Michael G. Corbett to Richard G. Clark and Donald E. Clark dated October 25, 1972 and recorded in the Madison County Clerk's Office on October 25, 1972 in Book of Deeds 667 at Page 470.

Tract ID:

Tract Name: OIN PARCEL 363 & 364 AKA GROUP 2

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK	Both (Mineral and Surface)
Lot	Block	Sub Division	USS	State	County	Acres

WD AEA01



Office Codes: B.S.51.011 AD Number: 4200196806 Case: 15294

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCEL 363 & 364 AKA GROUP 2

Land Area	Land Area Name	Tract Number	LTR	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK	Both (Mineral and Surface)
				REGIONAL OFFICE	LIAISON OFFICE	
Lot	Block	Sub Division	USS	State	County	Acres
99	99		99	NEW YORK	MADISON	99.434

DESCRIPTION: LANDS OF ONEIDA INDIAN NATION, ALSO KNOWN AS ONEIDA NATION OF NEW YORK, A SOVEREIGN INDIAN NATION, ONEIDA NATION OF NEW YORK, ONEIDA INDIAN NATION, NEW YORK BRIDGEPORT - KIRKVILLE ROAD. ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE TOWN OF SULLIVAN, COUNTY OF MADISON AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS: TAX MAP # 8.-2-34.1, TAX MAP #8.-2-44 AND TAX MAP # 8.-2-45 Beginning at a point standing on the centerline of Bridgeport - Kirkville Road, said point standing at the intersection of the centerline of Bridgeport - Kirkville Road with the southerly boundary of other lands of Oneida Nation of New York (Now or Formerly) as described in a Warranty Deed dated April 13, 2017 and filed in the Madison County Clerk's Office on April 21, 2017 as Instrument #2017-2044; said point being further described as having a Grid Coordinate N1149620.194 / E984083.887 (NAD 83); thence S89°49'55"E 244.04 feet along the southerly boundary of other lands of Oneida Nation of New York to a point; thence N01°48'35"W 159.91 feet along the easterly boundary of other lands of Oneida Nation of New York to an iron pin standing on the northerly boundary of other lands of Oneida Nation of New York; thence N89°56'27"W 253.12 feet along the northerly boundary of other lands of Oneida Nation of New York to a point on the centerline of Bridgeport-Kirkville Road; thence N05°09'34"W 81.35 feet along the centerline of Bridgeport-Kirkville Road to a point standing on the southerly boundary of Kristen A. Hunsicker and Richard L. Allen (Now or Formerly); thence S89°50'33"E 226.53 feet along the southerly boundary of Hunsicker and Allen to an iron pin standing on the easterly boundary of Hunsicker and Allen; thence N00°09'27"E 201.78 feet along the easterly boundary of Hunsicker and Allen, the easterly boundary of Salprop Inc. (Now or Formerly) to an iron pin standing on the southerly boundary of William Hamman (Now or Formerly); thence S88°56'16"E 710.00 feet along the southerly boundary of Hamman, the southerly boundary of other lands of William Hamman (Now or Formerly), the southerly boundary of Dzafar Husenovic and Drita Husenovic (Now or Formerly), the southerly boundary of Oneida Indian Nation (Now or Formerly), the southerly boundary of other lands of Oneida Indian Nation (Now or Formerly) and the southerly boundary of even other lands of Oneida Indian Nation (Now or Formerly) to an iron pin standing on the westerly boundary of other lands of Oneida Nation of New York (Now or Formerly); thence S02°25'34"E 62.48 feet along the westerly boundary of Oneida Nation of New York to an iron pin standing on the southerly boundary of Oneida Nation of New York; thence S89°18'42"E 126.15 feet along the southerly boundary of Oneida Nation of New York to an iron pin standing on the southerly boundary of Self-Storage Route 31, LLC (Now or Formerly); thence S88°44'02"E 231.80 feet along the southerly boundary of Self-Storage Route 31, LLC to an iron pin standing on the southerly boundary of Jennifer L. Abulencia (Now or Formerly); thence S88°02'08"E 281.10 feet along the southerly boundary of Abulencia and the southerly boundary of other lands of Oneida Nation of New York (Now or Formerly) to an iron pin standing on the westerly boundary of other lands of Oneida Nation of New York; thence S09°33'52"W 710.69 feet along the westerly boundary of other lands of Oneida Nation of New York to a point standing on the southerly boundary of other lands of Oneida Nation of New York; thence S69°28'49"E 212.69 feet along the southerly boundary of other lands of Oneida Nation of New York to an iron pin standing on the easterly boundary of other lands of Oneida Nation of New York; thence N20°04'52"E 794.77 feet along the easterly boundary of other lands of Oneida Nation of New York to an iron pin standing on the southerly boundary of Bridgeport Overseas Veterans Corporation, Inc. (Now or Formerly); thence S88°55'08"E 456.17 feet along the southerly boundary of Bridgeport Overseas Veterans Corporation Inc. to an iron pin standing on the southerly boundary of even other lands of Oneida Indian Nation (Now or Formerly); thence S77°55'08"E 130.96 feet along the southerly boundary of even other lands of Oneida Indian Nation and the southerly boundary of Paul Gagnon and Janet Gagnon (Now or Formerly) to an iron pin standing on the westerly boundary of Gagnon; thence S20°04'52"W 965.80 feet along the westerly boundary of Gagnon to an iron pin standing on the southerly boundary of Gagnon; thence S69°28'49"E 1486.69 feet along the southerly boundary of Gagnon, the southerly boundary of Empire 1 Acquisitions, LLC (Now or Formerly), the southerly boundary of Blase Larroca (Now or Formerly) and the southerly boundary of other lands of Blase Larroca (Now or Formerly) to an iron pin standing on the westerly boundary of other lands of Blase Larroca; thence S20°31'11"W 916.74 feet along the westerly boundary of other lands of Blasé Larroca to an iron pin standing on the northerly boundary of William F. Harrington and Linda C. Harrington (Now or

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Office Codes: B,S,51,011 AD Number: 4200196806 Case: 15294

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCEL 363 & 364 AKA GROUP 2

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
Lot	Block	Sub Division	USS	State	County	Acres
<p>Formerly); thence N69°34'36"W 3182.60 feet along the northerly boundary of Harrington to an iron pin standing on the easterly boundary of Eugene C. Perry, Jr. and Wendy L. Perry (Now or Formerly); thence N05°14'47"W 115.50 feet along the easterly boundary of Perry to an iron pin standing on the northerly boundary of Perry; thence N69°34'36"W 188.57 feet along the northerly boundary of Perry to a point standing on the centerline of Bridgeport - Kirkville Road; thence N05°14'47"W 175.88 feet along the centerline of Bridgeport - Kirkville Road to a point on the southerly boundary of Lawrence C. Jesmore (Now or Formerly); thence S69°28'49"E 364.62 feet along the southerly boundary of Jesmore to an iron pin standing on the easterly boundary of Jesmore; thence N05°14'47"W 330.00 feet along the easterly boundary of Jesmore and the easterly boundary of Limestone Ridge, LLC (Now or Formerly) to an iron pin standing on the southerly boundary of even other lands of Oneida Nation of New York (Now or Formerly); thence S88°48'22"E 3.47 feet along the southerly boundary of even other lands of Oneida Nation of New York to an iron pin standing on the easterly boundary of even other lands of Oneida Nation of New York; thence N05°12'36"W 100.00 feet along the easterly boundary of even other lands of Oneida Nation of New York to a point standing on the northerly boundary of even other lands of Oneida Nation of New York; thence N88°48'22"W 333.96 feet along the northerly boundary of even other lands of Oneida Nation of New York to a point standing on the centerline of Bridgeport - Kirkville Road; thence N05°07'41"W 229.12 feet along the centerline of Bridgeport - Kirkville Road to the point and place of beginning. The above-described parcel containing 99.434± acre of land, more or less. Subject to that portion of the above-described premises situate within the bounds of Bridgeport-Kirkville Road. Also, subject to an easement granted to New York Telephone Company by Deed dated September 27, 1961 and filed in the Madison County Clerk's Office in Liber 593 of Deeds at Page 537. Further subject to an Easement granted to Town of Sullivan, The North Sullivan Water District and Onondaga County Water Authority by Deed dated June 10, 1972 and filed in the Madison County Clerk's Office on September 19, 1972 in Liber 666 of Deeds at Page 564. Further subject to an Easement granted to The Town of Sullivan, The North Sullivan Water District and Onondaga County Water Authority by Deed dated June 12, 1972 and filed in the Madison County Clerk's Office on November 14, 1972 in Liber 667 of Deeds at Page 944. Further subject to an Easement granted to The Town of Sullivan, The North Sullivan Water District and the Onondaga County Water Authority by deed dated December 11, 1973 and filed in the Madison County Clerk's Office on March 28, 1973 in Liber 670 of Deeds at Page 375. Further subject to an easement granted to New York Telephone Company by Deed dated November 22, 1961 and filed in the Madison County Clerk's Office in Liber 593 of Deeds at Page 371. Further subject to a Right of Way and Easement granted to The Town of Sullivan Water District and Onondaga County Water Authority by Deed dated June 12, 1972 and filed in the Madison County Clerk's Office on November 14, 1972 in Liber 667 of Deeds at Page 945. Further subject to a Right of Way and Easement granted to Niagara Mohawk Power Corporation by Deed dated October 17, 1988 and filed in the Madison County Clerk's Office on January 23, 1989 in Liber 879 of Deeds at Page 33. Further subject to any other easements, covenants or restrictions of record.</p>						

Tract ID:

Tract Name: OIN PARCELS 343,344 AND 345 AKA GROUP 1

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
Lot	Block	Sub Division	USS	State	County	Acres
99	99			NEW YORK	MADISON	31.571
<p>DESCRIPTION: LANDS OF ONEIDA INDIAN NATION, A SOVEREIGN INDIAN NATION, ONEIDA INDIAN NATION OF NEW YORK, BEING TAX MAP#, TAX MAP # 48.8-1-1.1, 48.8-1-2 AND 48.8-1-1.3, OIN PARCELS 344, 343 AND 345, RESPECTIVELY ALL THAT TRACT OR PARCEL OF LAND SITUATE IN THE VILLAGE OF CHITTENANGO, TOWN OF SULLIVAN, COUNTY OF MADISON AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS: Beginning at a point on the centerline of New York State Route #5, (Fayetteville - Chittenango Pt. 2 S.H. 5120), said point standing at the intersection of the centerline of New York State Route 5 with the westerly boundary of Hickory Hills Apartments Inc. (Now or Formerly) as described in a Warranty Deed dated November 29, 1993 and filed in the Madison County Clerk's Office on February 3, 1994 in Liber 984 of Deeds at Page 269; said point being further described as having Grid Coordinate N 1,110,877.73 / E</p>						

WDAEADJ



Office Codes: B.S.51.011 AD Number: 4200196806 Case: 15294

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCELS 343,344 AND 345 AKA GROUP 1

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
Lot	Block	Sub Division	USS	State	County	Acres

1,005,014.23 (NAD 83, Central Zone 3102 Projection); thence N67°46'00"W 1330.84 feet along the centerline of New York State Route 5 to a point standing on the easterly boundary of other lands of Oneida Nation of New York (Now or Formerly); thence N11°24'22"E 222.39 feet along the easterly boundary of other lands of Oneida Nation of New York to a point standing on the northerly boundary of other lands of Oneida Nation of New York; thence N84°58'30"W 536.60 feet along the northerly boundary of other lands of Oneida Nation of New York to a point standing on the northerly highway boundary of New York State Route 5; thence N66°37'00"W 1074.89 feet along the northerly highway boundary of New York State Route 5 to an iron pin standing on the easterly highway boundary of Tom-Tom Street; thence N17°18'00"E 177.56 feet along the easterly highway boundary of Tom-Tom Street to an iron pin; thence N02°52'40"E 289.63 feet continuing along the easterly highway boundary of Tom-Tom Street to a iron pin standing on the southerly boundary of C,C,LF Senior Housing, LP (Now or Formerly); thence S67°13'10"E 274.82 feet along the southerly boundary of C,C,LF Senior Housing, LP to an iron pin standing on the easterly boundary of C,C,LF Senior Housing, LP; thence N22°46'50"E 45.00 feet along the easterly boundary of C,C,LF Senior Housing, LP to a point standing on the southerly boundary of C,C,LF Senior Housing, LP; thence S67°13'10"E 432.00 feet along the southerly boundary of C,C,LF Senior Housing, LP and the southerly boundary of even other lands of Oneida Nation of New York (Now or Formerly) to a point standing on the westerly boundary of even other lands of Oneida Nation of New York; thence S22°46'50"W 45.00 feet along the westerly boundary of even other lands of Oneida Nation of New York to a point standing on the southerly boundary of even other lands of Oneida Nation of New York; thence S67°13'10"E 2208.46 feet along the southerly boundary of even other lands of Oneida Nation of New York, the southerly boundary of Village Of Chittenango (Now or Formerly), the southerly boundary of Patricia Collins (Now or Formerly), the southerly boundary of Amanda Shawn Mari and Peter J. Welker (Now or Formerly), the southerly boundary of Steven M. Patricia and Alexia R. Cooper (Now or Formerly), the southerly boundary of Daniel F. Holtz and Sandra J. Holtz (Now or Formerly), the southerly boundary of Richard G. Ireland and Kirsten J. Ireland (Now or Formerly), the southerly boundary of Elizabeth J. Marsh (Now or Formerly), the southerly boundary of Dmitriy Tarasevich and Jennifer Tarasevich (Now or Formerly), the southerly boundary of Jason Scianablo (Now or Formerly), the southerly boundary of Anthony M. DiCesare and Michelle M. DiCesare (Now or Formerly), the southerly boundary of Tullio A. Palleschi Jr. and Cynthia A. Palleschi (Now or Formerly), the southerly boundary of Jeffrey D. Pitt and Sheila F. Pitt (Now or Formerly), the southerly boundary of Gary Mantz and Lisa Mantz (Now or Formerly), the southerly boundary of Richard K. Cullen and Roberta K. Cullen (Now or Formerly), the southerly boundary of Christopher A. Titus and Linda M. Titus (Now or Formerly), the southerly boundary of Brett M. Mowers and Laura R. Mowers (Now or Formerly), the southerly boundary of Robert J. Perriello and Madelyn M. Perriello (Now or Formerly), the southerly highway boundary of Talbert Drive and the southerly boundary of Melissa L. Barbano and Ryan J. Youngs (Now or Formerly) to a point standing on the westerly boundary of Raymond C. Miller and Jennifer D. Dresher-Miller (Now or Formerly); thence S05°01'20"W 527.17 feet along the westerly boundary of Miller, the westerly boundary of Robert J. Khammar and Miranda Lynn Khammar (Now or Formerly), the westerly boundary of Carlo L. Panetta (Now or Formerly) and the westerly boundary of Hickory Hills Apartments, Inc. to the point and place of beginning. The above described parcel containing 31.571± acres of land, more or less. Subject to a water easement as set forth in a Deed from Pyramid Investors Company to Village of Chittenango dated May 10, 1971 and filed in the Madison County Clerk's Office in Liber 710 of Deeds at Page 33, to which deed reference is made for certainty of description, terms and conditions. Also subject to a sanitary sewer easement as set forth in a Deed from Pyramid Investors Company to Village of Chittenango dated May 10, 1971 and filed in the Madison County Clerk's Office in Liber 710 of Deeds at Page 33, to which deed reference is made for certainty of description, terms and conditions. Further subject to a drainage easement as set forth in a Deed from Pyramid Investors Company to Village of Chittenango dated May 10, 1971 and filed in the Madison County Clerk's Office in Liber 710 of Deeds at Page 33, to which deed reference is made for permanent right of way as set forth in a Deed from Pyramid Investors Company to Village of Chittenango dated May 10, 1971 and filed in the Madison County Clerk's Office in Liber 710 of Deeds at Page 33, to which deed reference is made for

WD AEAQ1



Office Codes: B-S-51-011 AD Number: 4200196806 Case: 15294

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCELS 343,344 AND 345 AKA GROUP 1

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK	Both (Mineral and Surface)
				REGIONAL OFFICE	LIAISON OFFICE	
Lot	Block	Sub Division	USS	State	County	Acres

certainly of description, terms and conditions. Further subject to a right of way and easement as set forth in a Deed from Pyramid Investors Company to Chittenango Housing For Elderly dated October 1, 1981 and filed in the Madison County Clerk's Office in Liber 731 of Deeds at Page 21, to which deed reference is made for certainty of description, terms and conditions. Further subject to a permanent easement to the People of the State of New York by Notice of Appropriation, Fayetteville-Chittenango, Pt. 2, S.H. #5120 Map #2228 as set forth in a Deed dated March 13, 1973 and filed in the Madison County Clerk's Office on June 4, 1973 in Liber 671 of Deeds at Page 924, to which deed reference is made for certainty of description, terms and conditions. Further subject to the rights of the public to that portion of the above described premises lying within the bounds of New York State Route 5. Further subject to any other easements, covenants or restrictions of record.

Tract ID:

Tract Name: OIN PARCEL 346

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK	Both (Mineral and Surface)
				REGIONAL OFFICE	LIAISON OFFICE	
Lot	Block	Sub Division	USS	State	County	Acres
99	99			NEW YORK	MADISON	6.300

DESCRIPTION: LANDS OF ONEIDA INDIAN NATION, A SOVEREIGN INDIAN NATION, ONEIDA INDIAN NATION OF NEW YORK, BEING TAX MAP# 40.20-1-40, OIN Parcel 346; ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Chittenango, Town of Sullivan, County of Madison and State of New York, bounded and described as follows: BEGINNING at a point on the easterly highway boundary of Tom-Tom Street, said point standing at the intersection of the easterly highway boundary of Tom-Tom Street with the southerly boundary of lands of Vera B. Alley (now or formerly) as described in a Warranty Deed dated May 3, 2001 and filed in the Madison County Clerk's Office in Liber 1190 at Page 308; said point of beginning being further described as having Grid Coordinate N1113962.761/E682341.557 (NAD 27, Central Zone 3102 Projection); thence S. 05° 46' 00" W. 100.00 feet along the easterly highway boundary of Tom-Tom Street to a point standing on the northerly boundary of lands of Chittenango Housing For Elderly (now or formerly); thence northeasterly 39.27 feet on a curve to the right along the northerly boundary of Chittenango Housing For Elderly having a radius of 25 feet to an iron pin; thence S. 84° 14' 00" E. 323.00 feet continuing along the northerly boundary of Chittenango Housing For Elderly to an iron pin standing on the easterly boundary of Chittenango Housing For Elderly; thence S. 05° 46' 00" W. 412.32 feet along the easterly boundary of Chittenango Housing For Elderly to a point standing on the northerly boundary of lands of North Atlantic Development, Inc. (now or formerly); thence S. 67° 13' 10" E. 356.63 feet along the northerly boundary of North Atlantic Development, Inc. to a point standing on the easterly boundary of North Atlantic Development, Inc.; thence S. 22° 46' 50" W. 45.00 feet along the easterly boundary of North Atlantic Development, Inc. to a point standing on the northerly boundary of North Atlantic Development, Inc.; thence S. 67° 13' 10" E. 135.00 feet along the northerly boundary of North Atlantic Development, Inc. to a point standing on the westerly boundary of lands of The Village of Chittenango (now or formerly); thence N. 22° 46' 50" E. 200.00 feet along the westerly boundary of The Village of Chittenango to a point standing on the northerly boundary of The Village of Chittenango; thence S. 67° 13' 10" E. 30.76 feet along the northerly boundary of The Village of Chittenango to a point standing on the westerly boundary of lands of Thomas W. and Patti McGee (now or formerly); thence N. 22° 46' 50" E. 122.50 feet along the westerly boundary of McGee to an iron pin standing on the southerly boundary of lands of Thomas M. and Laura Carfagno (now or formerly); thence N. 51° 26' 19" W. 239.01 feet along the southerly boundary of Carfagno to an iron pin standing on the westerly boundary of Carfagno; thence N. 05° 46' 00" E. 170.38 feet along the westerly boundary of Carfagno and the westerly boundary of lands of Giuseppe and Maria Rita Cannistra (now or formerly) to an iron pin standing on the northerly boundary of Cannistra; thence S. 84° 14' 00" E. 86.13 feet along the northerly boundary of Cannistra to a point standing on the westerly highway boundary of Margo Avenue; thence N. 05° 46' 00" E. 50.00 feet along the westerly highway boundary of Margo Avenue to an iron pin standing on the southerly boundary of lands of Russell H. Cooper (now or formerly); thence N. 84° 14' 00" W. 789.02 feet along the

WD AEA01



Office Codes: B,S,51,011 AD Number: 4200196806 Case: 15294

Case Number: 15294

Applicant Name: ONEIDA INDIAN NATION

Tract ID:

Tract Name: OIN PARCEL 346

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK REGIONAL OFFICE LIAISON OFFICE	Both (Mineral and Surface)
<u>Lot</u>	<u>Block</u>	<u>Sub Division</u>	<u>USS</u>	<u>State</u>	<u>County</u>	<u>Acres</u>

southerly boundary of Cooper, the southerly boundary of lands of Lawrence J. Lonergan (now or formerly); the southerly boundary of lands of John J. and Virginia H. Nykaza (now or formerly), the southerly boundary of lands of David and Shirley Mills (now or formerly), the southerly boundary of lands of Alan R. and Nora S. Laube (now or formerly), the southerly boundary of lands of Keith and Marcia St. Louis (now or formerly) and the southerly boundary of lands of Alley to an iron pin; thence northwesterly 39.27 feet on a curve to the right in the southerly boundary of Alley having a radius of 25.00 feet to the point and place of beginning. The above described parcel contains 6.300 ± acres of land, more or less. BEING THE SAME PREMISES as described in a Warranty Deed from Pyramid Investors Company to North Atlantic Development, Inc. dated July 7, 2003, and recorded in the Madison County Clerk's Office on July 18, 2003, in Book 1263 of Deeds at Page 250.

Tract ID:

Tract Name: OIN PARCEL 347

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN	NEW YORK REGIONAL OFFICE LIAISON OFFICE	Both (Mineral and Surface)
<u>Lot</u>	<u>Block</u>	<u>Sub Division</u>	<u>USS</u>	<u>State</u>	<u>County</u>	<u>Acres</u>

DESCRIPTION: LANDS OF ONEIDA INDIAN NATION, A SOVEREIGN INDIAN NATION, ONEIDA INDIAN NATION OF NEW YORK, BEING OIN 347; Tax Map # 48.-1-7.112, ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Sullivan, County of Madison and State of New York, being part of Lot 4 of Varick's Location and being part of lands described in a deed from Benjamin Franklin Metcalf to John J. Benson recorded in the Madison County Clerk's Office April 30, 1912, in Book 235 of Deeds at page 140, being more particularly described as follows: BEGINNING at a point of intersection of the centerline of New York State Route 5 with the easterly boundary of lands described by the above mentioned deed, said point of beginning being about 1815 feet distant easterly, as measured along the centerline of New York State Route 5 from the westerly line of said Lot 4 of Varick's Location; running thence N. 66° 59' 20" W. along the centerline of New York State Route 5 a distance of 725.3 feet to the point of intersection of the centerline of New York State Route 5 with the northerly boundary of lands described by the above mentioned deed; thence S. 84° 58' 30" E. along the northerly boundary of said lands of above mentioned deed a distance of 692.60 feet to the northeast corner of said lands; thence S. 5° 44' W. along the easterly boundary of said lands a distance of 223.96 feet to the point of beginning. Totaling 1.30 acres, more or less. EXCEPTING those lands lying between the above described centerline of New York State Route 5 and the northerly highway boundary of New York State Route 5, the northerly highway boundary being about 49.5 feet distant northerly, as measured at right angles, from the highway centerline. BEING THE SAME PREMISES as described in a Warranty Deed from Mary Benson, John R. Benson, Betsey Benson and Robert J. Benson to North Atlantic Development, Inc. dated September 30, 2004, and recorded in the Madison County Clerk's Office on October 25, 2004, as Document Number 2004- 00009880 (Book 1316 of Deeds at Page 188).

WDAEAD1



Office Codes: B,S,51,011 AD Number: 4200196806 Case: 15294



Case Number: 38386

Applicant Name: ONEIDA INDIAN NATION

### LEGAL DESCRIPTION EXHIBIT A

**Tract ID:**

**Tract Name: OIN PARCEL 384**

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRO</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
011	ONEIDA OF NEW YORK		ANADARKO, OK	EASTERN REGIONAL OFFICE	NEW YORK LIAISON OFFICE	Both (Mineral and Surface)
<u>Lot</u>	<u>Block</u>	<u>Sub Division</u>	<u>USS</u>	<u>State</u>	<u>County</u>	<u>Acres</u>
99	99			NEW YORK	ONEIDA	.616

DESCRIPTION: LANDS OF ONEIDA INDIAN NATION, A SOVEREIGN INDIAN NATION, ONEIDA INDIAN NATION OF NEW YORK, BEING TAX MAP# 252.007-5-25, OIN Parcel 384; ALL THAT TRACT OR PARCEL OF LAND SITUATE IN TOWN OF VIENNA, COUNTY OF ONEIDA AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS: Beginning at a concrete monument standing on the nominal westerly highway boundary of Park Avenue, said concrete monument standing at the intersection of the nominal westerly highway boundary of Park Avenue with the southerly boundary of Edward R. Stewart, Jr. and Leslie F. Stewart (Now or Formerly) as described in a deed filed in the Oneida County Clerk's Office in Liber 2174 of Deeds at Page 161; thence S 14°45' 00" W 172.00 feet along the westerly highway boundary of Park Avenue to a point standing on the northerly boundary of Ontario Realty, Inc. (Now or Formerly); thence N 75° 15' 00" W 158.08 feet along the northerly boundary of Ontario Realty, Inc. and also along the northerly boundary of other lands of Ontario Realty, Inc. (Now or Formerly) to a point standing on the easterly boundary of the Village of Sylvan Beach (Now or Formerly); thence N 14°44' 10" E 130.00 feet along the easterly boundary of the Village of Sylvan Beach to a point standing on the southerly boundary of other lands of the Village of Sylvan Beach (Now or formerly); thence S75° 15' 00" E 8.11 feet along the southerly boundary of other lands of the Village of Sylvan Beach to a point standing on the easterly boundary of other lands of the Village of Sylvan Beach; thence N 14°45' 00" E 42.00 feet along the easterly boundary of other lands of the Village of Sylvan Beach to a point standing on the southerly boundary of Stewart; thence S75° 15' 00" E 150.00 feet along the southerly boundary of Stewart to the point and place of beginning. Totaling 0.616 acres, more or less.

WD AEA 01



Office Codes: B-S-51-011 AD Number: 4200196806 Case: 38386

# **ATTACHMENT III**

## **CATEGORICAL EXCLUSION EXCEPTION REVIEW**



IN REPLY REFER TO:

# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Eastern Regional Office  
545 Marriott Drive, Suite 700  
Nashville, Tennessee 37214

## CATEGORICAL EXCLUSION REVIEW

### A. Background

Project Name: Oneida Indian Nation , Fee-to-Trust Application (Indian Gaming Parcels)

Exclusion category 516 DM 10.5 (I)

### B. Description of Proposed Action:

The Oneida Indian Nation (Nation) has requested that the Secretary of the Interior transfer into federal trust status, land located in Oneida and Madison Counties, New York for the benefit of the Nation. The properties are currently used for Indian Gaming/Commercial purposes and are generally described below:

- Yellow Brick Road Casino – 37.8-acres - 800/900 West Genesee Street, Village of Chittenango, Madison County, New York. The property consists of five contiguous tax parcels and is located in a mixed-use commercial and residential area. The property is currently occupied by two separate commercial buildings, parking lots, and vacant undeveloped land.
- Point Place Casino – 115-acres - 8908 Bridgeport Kirkville Road, Town of Sullivan, Madison County, New York. The property consists of 17 contiguous tax parcels with one commercial building (64,618 square feet) operating as the Point Place Casino. There are two single-story residential houses on the northern end of the subject site and surrounding land use is mixed-use commercial, residential, and rural area.
- The Lake House – 0.66-acres - 301 Park Avenue, Village of Sylvan Beach, Town of Vienna, Oneida County, New York. The subject site is currently used as a restaurant, bar, and a casino.
- SavOn Canastota – 131-acres - 356 North Peterboro Street in Canastota, Madison County, New York. The property consists of eight tax parcels with one commercial building (7,000 square feet) operating as the SavOn Canastota gasoline service station/convenience store/gaming center. The remainder of the subject site is unoccupied, vegetated land.

The Nation has no plans to change the current land use of the properties.

### C. Compliance with NEPA:

A land-into-trust request that proposes no change in land use is subject to a “categorical exclusion” review under BIA policies and procedures for implementing NEPA. Meaning the proposed action is categorically excluded from further analysis under NEPA in accordance with

516 DM 10.5 (I) – *Land Conveyance and Other Transfers - Approvals or grants of conveyances and other transfers of interests in land where no change in land use is planned.*


BIA’s action is administrative in nature and would result in the federal government holding title to the property in trust for the benefit of the Nation. There would be no construction or any ground-disturbing activities associated with the BIA action. Since there is no change in land use planned, there are no connected actions that need to be analyzed by BIA in accordance with NEPA.

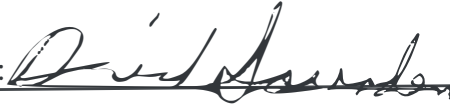
As part of the categorical exclusion process, BIA environmental staff must consider and document an “extraordinary circumstances” review. This review and the extraordinary circumstances are defined for the Department of the Interior at 43 CFR §46.215. Documentation from the extraordinary circumstances review for this project has been attached as Attachment 1.

Based on the extraordinary circumstances review it has been determined that a categorical exclusion review is the appropriate level of review in accordance with NEPA. The categorical exclusion is appropriate because there are no extraordinary circumstances potentially having effects that may significantly affect the environment.

Approval of the of the Nation’s fee-to-trust application will have no adverse environmental impacts on public health or safety, wetlands, wild or scenic rivers, refuges, floodplains, rivers placed on the nationwide river inventory, prime or unique farmlands, and historic properties.

**D. Signatures:**

Concur:  Date: 4/19/2022  
Regional Environmental Scientist

Concur:  Date: 4/12/2022  
Regional Archeologist

Approve:  Date: 4/22/22  
Regional Director

## Attachment 1

### Extraordinary Circumstance Review

Extraordinary Circumstances	NO	YES
<p><b>1. This action will have significant adverse effects on public health or safety.</b></p> <p><u>Rationale:</u> This action would not have a significant adverse effect on public health and safety. The properties have been owned and operated by the Nation for a number of years with no significant adverse effects on public health and safety being reported. All activities and operations on the parcels would still be regulated by any applicable federal laws and regulations.</p>	X	
<p><b>2. This action will have an adverse effect on unique geographical features such as wetlands, wild or scenic rivers, refuges, floodplains, rivers placed on the nationwide river inventory, or prime or unique farmlands.</b></p> <p><u>Rationale:</u> The proposed action will not result in any adverse effects on unique geographical features. There would be no construction or any ground-disturbing activity associated with the BIA action.</p>	X	
<p><b>3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.</b></p> <p><u>Rationale:</u> There are no highly controversial environmental effects associated with the proposed action. The proposed action is administrative in nature and will not result in any activities that would impact air, water or land resources. The properties will continue to be subject to compliance with federal environmental regulations.</p>	X	
<p><b>4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.</b></p> <p><u>Rationale:</u> The proposed action would not result in any highly uncertain and potentially significant effects. The proposed action is administrative in nature and will not result in any activities that would impact air, water or land resources.</p>	X	
<p><b>5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.</b></p> <p><u>Rationale:</u> The proposed action would not be precedent setting or represent a decision in principle about future actions with potentially significant environmental effects. The federal government currently holds lands in trust for the benefit of the Nation.</p>	X	

<p><b>6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.</b></p> <p><u>Rationale:</u> The proposed action has no direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. The proposed action is simply administrative in nature and will not result in any activities that would impact air, water or land resources.</p>	X	
<p><b>7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.</b></p> <p><u>Rationale:</u> The proposed action will have no significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places. Please see attached correspondence from the Nation’s Historic Resources Specialist</p> <p>As specified in 36 CFR 800.3(a)(1), the fee-to-trust approval, when no change in land use is planned, is a type of activity that does not have the potential to cause effects on historic properties, and the BIA has no further obligations under section 106 of the National Historic Preservation Act for the fee-to trust approval undertaking.</p> <p>The BIA action will not result in any construction, ground-disturbing activities, or alteration of any structures.</p>	X	
<p><b>8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.</b></p> <p><u>Rationale:</u> The proposed action will have no significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species. The proposed action is simply administrative in nature and will not result in any activities that would impact air, water or critical habitat for biological resources. Additionally, any future actions on the parcels would still be subject to the Endangered Species Act.</p>	X	
<p><b>9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.</b></p> <p><u>Rationale:</u> The proposed action would not violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.</p>	X	
<p><b>10. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).</b></p> <p><u>Rationale:</u> The Nation is an Environmental Justice community and the proposed action has been requested by the Nation because it would result in a positive impact.</p>	X	
<p><b>11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity</b></p>	X	

<p><b>of such sacred sites (EO 13007).</b></p> <p><u>Rationale:</u> The proposed action would not result in limited access to, and ceremonial use of, sacred sites by the Nation. This action is being requested by the Nation.</p>		
<p><b>12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).</b></p> <p><u>Rationale:</u> The proposed action would not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area.</p>	X	

# ONEIDA INDIAN NATION



JESSE BERGEVIN  
HISTORIC RESOURCES SPECIALIST

DIRECT DIAL: (315) 829-8463  
E-MAIL: [jbergevin@oneida-nation.org](mailto:jbergevin@oneida-nation.org)

## ONEIDA INDIAN NATION HOMELANDS

January 31, 2022

Mr. Michael Massena  
Environmental Manager  
Oneida Indian Nation  
5218 Patrick Road  
Verona, NY 13478

Re: *Oneida Indian Nation Historical, Cultural & Archeological Resources*

Dear Mr. Massena:

I am writing you in connection with the Oneida Indian Nation's (the "Nation") pending applications asking the Department of the Interior to accept transfers of title to certain land now owned by the Nation, to be held in trust for the Nation after transfer.

As the Nation's historic resources specialist, I am responsible for reclamation and preservation of Oneida Indian Nation culture, in particular with respect to historical, cultural and archaeological sites. I am therefore the Nation's principal staff liaison with the staff of federal and state agencies who consult and cooperate with the Nation on issues related to the National Historic Preservation Act (including Section 106 issues), the Native American Graves Protection and Repatriation Act, executive orders concerning Indian sacred sites and coordination with tribal governments on cultural resource issues, and other intergovernmental matters related to protection of the Nation's heritage and cultural patrimony.

I have reviewed the Oneida Indian Nation spreadsheets of gaming and non-gaming parcels that are the subject of the 2015 and 2021 pending trust applications. None of those sites is on the National Register of Historic Places. Pursuant to Section 106 and the regulations under or related to Section 106, including those at 36 C.F.R. Part 800, none of the properties might qualify for that register except the parcel which, in the column heading "Current Use," there is the notation "historical. The historical property relates to past Oneida land use and occupation. Below-ground they have or may have certain evidence or artifacts of past Oneida presence on the land, such as pottery. There are no buildings, structures, objects or other above-ground items that would qualify for the register.

The proposed trust transfer of the properties will not have any adverse effects on the properties or on any historically, archaeologically or culturally important feature of the properties. There will be no physical destruction or damage, no alteration, no relocation, no change in the character of use or setting, no introduction of incompatible visual, atmospheric or audible elements, no neglect or deterioration, and no transfer, lease or sale of the property out of federal control.



Letter to Mike Massena  
January 31, 2022  
Page 2

I understand that the Nation has informed the United States that no change in use is planned for any of the properties that are the subject of the trust applications. I also understand that the Nation's 2013 settlement with the State of New York and two local counties already recognizes the Nation's jurisdiction over the land, all of which is in the Oneida reservation, and so no future use of the properties depends upon trust status.


In connection with a previous trust request from the Oneida Indian Nation, the Department of the Interior issued a May 2008 Record of Decision analyzing the effects of trust transfers of 17,370 acres of other land within the Oneida reservation, including nearly all of the same land that is the subject of the currently pending trust land applications. See 36 C.F.R. § 800.4(b)(1) ("the agency official shall take into account past planning, research and studies. . ."). Section 3.1.3 of that 2008 ROD noted that the State of Office of Parks, Recreation and Historic Preservation concluded that trust transfers would have "No effect upon historic properties in or eligible for inclusion in the State and National Registers of Historic Places." The same conclusion applies to the current trust land applications.

Moreover, granting the pending trust applications will – for reasons explained in section 3.1.3.1 of the 2008 ROD – increase the protection of historical, cultural and archeological resources on the lands that are the subject of those applications. I will not repeat the analysis in section 3.1.3.1, but will adopt it here by reference, and note that it describes the ways in which trust status will assure that federal laws such as the National Historic Preservation Act, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act are applicable to protect the Nation's cultural patrimony.

As also recognized in the 2008 ROD, trust status will also assure that the Nation can exercise its own governmental rights to protect its historical, cultural and archeological resources. While federal law currently protects many of those interests, requiring consultation with the Nation by state and federal agencies regarding land within and around the Oneida Indian Nation reservation in New York, it is a significant further step to assure that the Nation is able to express its sovereignty and to enforce its own laws and regulations to protect its interests. Trust status assures that, as there can be no reasonable dispute about the Nation's governmental rights on its trust land. Even though the federal courts have held that the Oneida Indian Nation reservation was not disestablished, and even with the 2008 settlement's recognition of the Nation rights on its fee lands within the reservation, there are still those who would dispute those rights. Trust status will eliminate all disputes. Trust status also will assure that the Nation never will lose possession of the property.

Accordingly, saying that a favorable trust decision will not adversely impact historical, cultural and archeological resources gives an incomplete picture. A favorable trust land decision by the United States Department of the Interior actually will increase protection of those resources. There should be no reasonable doubt that that the Nation and the federal government will be vigilant in such protection efforts, and also in cooperating with the New York State Historic Preservation Office. For its part, the Nation is very proud of its long history of such cooperation. The Nation is equally proud of its various programs to identify and preserve its heritage, and to involve both Nation members and also nonmembers of the Nation in the kinds of educational programs that will assure respect for and preservation of the past.

Very truly yours,



Jesse Bergevin

cc: Megan Murphy Beakman, General Counsel