



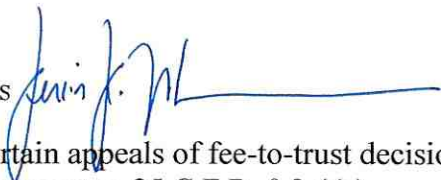
# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

**NOV 12 2013**

## Memorandum

To: All Regional Directors, Bureau of Indian Affairs  
Interior Board of Indian Appeals

From: Assistant Secretary – Indian Affairs 

Subject: Assumption of Jurisdiction over certain appeals of fee-to-trust decisions to the Interior Board of Indian Appeals pursuant to 25 C.F.R. § 2.4(c).

One of the most important authorities and responsibilities entrusted to the Department of the Interior (Department) is whether to acquire land in trust for Indian tribes pursuant to Federal law. Restoring tribal homelands is critical to promoting tribal self-determination and self-governance and remedying the negative effects of repudiated policies of allotment and assimilation.

The majority of all fee-to-trust acquisition decisions are made by a BIA Regional Director and are appealable to the Interior Board of Indian Appeals (IBIA) pursuant to 25 C.F.R. Part 2. Under the Department's existing regulations, the Assistant Secretary – Indian Affairs (AS-IA) possesses the authority to assume jurisdiction over appeals challenging fee-to-trust acquisition decisions made by a Regional Director. Appeals of fee-to-trust acquisition decisions involving large parcels are often particularly important to tribes, states, and local governments.

Given the importance of such appeals to all parties, pursuant to 25 C.F.R. § 2.4(c), and following the procedures set forth at 25 C.F.R. § 2.20, the AS-IA will assume jurisdiction over all appeals to the IBIA challenging the BIA's decision to acquire land in trust for parcels of land that cumulatively total 200 acres or more.

### **New Policy for Appeals of Fee-to-Trust Decisions Concerning at Least 200 Acres**

In order to provide parties with the opportunity for review by the AS-IA, the AS-IA will assume jurisdiction over all appeals to the IBIA challenging a Regional Director's decision to acquire land in trust for parcels of land that cumulatively total at least 200 acres. Under 25 C.F.R. § 2.4, various officials may decide appeals of certain decisions of the Department and, under 25 C.F.R. § 2.20, the AS-IA may assume jurisdiction over appeals filed with the IBIA.

Under 25 C.F.R. § 2.20, when an appeal is made to the IBIA, a copy of the appeal is to be sent to the AS-IA. Paragraph (c) states that "a notice of appeal to the [IBIA] shall not be effective until 20 days after receipt by the Board." During this 20-day window, the AS-IA has the authority to decide to issue a decision in the appeal or assign the responsibility to issue a decision to the Deputy to the AS-IA.

In accordance with existing regulations, my office hereby provides notice to the Regional Directors and the IBIA that the AS-IA will assume jurisdiction over all appeals of decisions to acquire at least 200 acres of land in trust. My office will follow the procedures set forth at 25 C.F.R. § 2.20(c), providing notice to the IBIA, the deciding Regional Director, the appellant, and interested parties within 15 days of my receipt of a copy of the notice of appeal, after which the IBIA will transfer the appeal to my office.

In order to assist with implementing this policy, Regional Directors should notify my office when their Regional Office:

1. receives a fee-to-trust application to acquire at least 200 acres of land in trust and deems that application to be complete and ready for review; and
2. issues a decision to acquire at least 200 acres of land in trust; and
3. receives any notice that the Regional Director's decision to acquire more than 200 of acres of land in trust has been appealed to the IBIA.

Notifications should be addressed to: Kevin Washburn, Assistant Secretary-Indian Affairs  
cc: Elizabeth Appel  
1849 C Street, NW  
MS-4141-MIB  
Washington, DC 20240

All notifications must also be emailed to: [F2Tnotice@bia.gov](mailto:F2Tnotice@bia.gov)