

**Pala Band of Mission Indians
Fee to Trust Application
Rancho Luna Mia
APN # 110-090-19, 110-090-20**

BACKGROUND/LAND DATA:

On June 14, 2006 the General Council of the Pala Band of Luiseno Mission Indians duly adopted Resolution # 06-03, authorizing the Tribal Chairman to submit a fee-to-trust application and to execute a grant deed conveying the subject property to the United States of America in trust for the Pala Band of Luiseno Mission Indians, attached hereto as Exhibit 1.

The Pala Indian Reservation is located in San Diego County. The Reservation was originally established by Executive Order dated December 27, 1875 but was not apportioned any land until a trust patent was issued on February 10, 1893 for 160 acres. The original reservation acreage was 320 acres. The task of relocating the Indians at the Warner's Rancho, Mataguay Rancho and San Felipe Rancho was assigned to a commission appointed by the government to examine lands offered for sale to the government. The commission was charged with the selection of the best location for the government to purchase the lands for the Indians about to be evicted from these Ranchos. Unable to arrange the purchase of the villages inhabited by the Cupeño, San Luiseno and Kumeyaay Indians on these Ranchos the commission found the best land that was available for purchase, recommending the purchase of 3,438 acres in the valley of Pala and the reserving of approximately 8,000 acres of adjoining public lands (Preliminary Report of the Warner's Ranch Indian Advisory Commission 1902). The purchase would incorporate the small San Luiseno reservation that already existed at Pala. The land at Pala was purchased, and in 1903 the army came and moved the people from the villages on the Warner's and San Felipe Ranchos to the newly purchased reservation of Pala. The villages moved included Cupa, San Jose, Puerta La Cruz, Puerta Ignoria (Noria), Tawhee, Mataguay, Puerta de San Felipe, and San Felipe. While the army took a majority of these people to Pala with what they could carry on their backs and in their wagons, a few elderly people hid in the hills to die there. Some people fled over the hills and went to various cities in Southern California, and some fled to other reservations, requested refuge, and were accepted by these bands. Santa Ysabel, Mesa Grande, La Jolla, Los Coyotes and Morongo are known to have accepted such refugees. The newly enlarged reservation of Pala now contained the original San Luiseno members and some Kumeyaay, but the majority were Cupeño, that is, the people from Cupa or Warner's Hot Springs. During the next few years, several pieces of land were removed from the newly created Pala Reservation because tourmaline gem crystals were discovered there. Bureau correspondence indicates that it was not bureau policy to include lands containing minerals, but only farm and grazing lands. Thus the mining properties, which could have provided a good income to the Indians, were removed from the reservation. Subsequently from 1903 to 2002 there were several additions made to the Reservation which include 15,617.376 acres. The subtractions made from the Reservation include 3,640 acres; which leaves a net total acreage of 12,297.376 acres. Of those 12,297.376 acres 1,159.04 acres have been allotted to Individual Tribal Members and their subsequent heirs.

The Tribe is duly governed by its Constitution and By Laws adopted ^{August 15, 1959} [redacted] attached hereto as Exhibit 2. The existing trust lands include both Tribally owned trust and Individually owned trust. The existing uses of the trust lands include [redacted] residential units, the Tribes Hotel/Casino & Spa, Tribal Administration Complex including a sports complex, Fire Station, Gas Station & Mini mart.

The Pala Band of Luiseno Mission Indians of the Pala Reservation is a Federally recognized Indian Tribe as shown in the Federal Register Vol. 70, No. 226, dated November 25, 2005, attached hereto as Exhibit 3.

The Tribe therefore submits this application in accordance with the policy requirements of 25 CFR 151.3 Land Acquisition Policy, (3) *When the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian Housing.*

FACTORS FOR CONSIDERATION 25 CFR 151.10: The following information is submitted to the Bureau of Indian Affairs to facilitate the review and consideration of the request of the Pala Band of Luiseno Mission Indians to take a 49.53 acre parcel known as Rancho Luna Mia into trust for the benefit of the Tribe.

FACTOR 1 (25 CFR 151.10a): The existence of statutory authority for the acquisition and any limitations contained in such authority:

The Pala Band of Luiseno Mission Indians is recognized as an American Indian Tribe by the Secretary of the Interior. The Pala Band is organized under its "Articles of Association" that were adopted on August 15, 1959, in an election called for that purpose by the Assistant Secretary of the Interior. The Tribe's Articles of Association were approved by the Assistant Secretary on November 6, 1960, as amended and approved by Amendment No. 1 on July 3, 1961, Amendment No. 2 on November 27, 1973, Amendment No. 3 on March 11, 1974 and Amendment No. 4 on October 2, 1980. Therefore, the Secretary of the Interior is authorized to acquire and hold land into trust for the Tribe pursuant to §5 of the Indian Reorganization Act (25 USC 465) through §203 of the Indian Land Consolidation Act (25 USC 2205) as amended.

FACTOR 2 (25 CFR 151.10b): The need for additional land:

The Pala Reservation was issued a trust patent on February 10, 1893, for lands described as: The S1/2NE1/4 of Section 33; NW1/4NW1/4 and NE1/4NE1/4 of Section 34, T. 9 S., R. 2 W., SBBM, California, containing 160.00 acres. To date the Pala Band has a total of 11,159.326 Tribal Land, 1,138.05 acres of Allotted Land for a total of 12,297.376 acres. It is true that the Pala Band has a larger land base from it's original 160.00 acres, but one must consider that a large portion of their land base is of a mountainous rocky terrain and a major flood zone area making it difficult for the Band to provide adequately for tribal home sites and economic development. With the federal allocations to the Tribe and Federal Services to the Tribe decreasing rapidly, the need for the Tribe to become self-sufficient increases. The property lies [redacted] to the Tribe's reservation boundary. With the purchase of this property the Tribe will be able to create a buffer zone around the reservation. There are a number of housing

developments that are proposed which surround the reservation, therefore, the need is created to have a buffer zone to protect the character of the reservation. This property has been used in the past as a ranch and the Tribe is interested in maintaining the rural character of the property.

FACTOR 3 (25 CFR 151.10c): The purpose for which the land will be used:

The properties covered by this application are flat and completely usable with direct access off the main highway. The property currently has a residence on it with an area used for grazing livestock. The livestock include horses, cattle and other small farm animals. The number of livestock is limited. The residence is currently being used for office space for the Tribal Aid to Needy Families (TANF) office which is operated by the Southern California Tribal Chairman's Association (SCTCA). The Tribe has entered in to a short term lease with SCTCA for the use of the buildings and its facilities. Some of the livestock on the property is also owned by the SCTCA. The use of the subject property will remain the same. The Tribe has no intention of changing the use of the property or developing it in any way.

FACTOR 4 (25 CFR 151.10d): not applicable for Tribal acquisition.

FACTOR 5 (25 CFR 151.10e): Impact on the State and its political subdivisions resulting from the removal of land from the tax rolls:

In the evaluation of the Tribe's request for the acquisition of additional Trust lands, the reviewing agencies will consider impacts to the State and its Political Subdivisions, including any jurisdictional problems and potential conflicts of land use, which may arise. The current taxes the Tribe pays on the property is \$11,817.40. The impact on the State of California and or San Diego County of accepting this land into trust status as part of the Pala Reservation is minimal. The current property taxes paid to the County of San Diego is estimated at \$1.8 billion. In determining the impact on the County's tax base, this parcel accounts for .000006565 % of the County's tax base. The percentage is so diminutive that the impact is of no value and merits no consideration. Accordingly, there is no retail activity on the subject property; therefore, there is no loss to the State of California.

FACTOR 6 (25 CFR 151.10f): Jurisdictional problems and potential conflicts of land use:

This parcel, while contiguous with the reservation boundary is surrounded by tribally owned land. The land to the west and south is fee land owned by the tribe and the property to the east is Tribal Trust land. Considering there will be no change in land use and the tribe wishes to maintain the rural character of this land, no impact or jurisdictional conflicts are anticipated.

The land is presently subject to full civil/regulatory and criminal/prohibitory jurisdiction of the State of California and San Diego County. Once the land is accepted into trust and becomes part of the Reservation, the State of California will have the same territorial and adjudicatory jurisdiction over the land and persons and transactions on the land as the State has over the Indian counties within the State. Under 18 U.S.C §1162 and 28 U.S.C. §1360 (P.L. 83-280), except as otherwise expressly provided in those statutes, the State of California would retain jurisdiction to enforce its criminal/prohibitory law as against all persons and conduct occurring

on the land, and to adjudicate in State courts civil cases of action arising on the land and involving Indians as parties. Thus, provision of police services would continue to be the responsibility of the San Diego County Sheriff's Department and criminal prosecutions of offenses committed on the lands would continue to be brought in State Courts. Emergency medical and fire protection services will continue to be provided by the Pala Tribal Fire Department.

FACTOR 7 (25 CFR 151.10g): Whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of land into trust status:

The Pala Band has developed its Tribal Administrative staff and offices to the extent that Bureau services and responsibilities are limited to those required by Federal Trusteeship. The Pala Band is also currently considering contracting Bureau services as related to Real Property Management matters. Therefore, any contemplated impact to the Bureau for acceptance of this property in trust is not only minimal, but could eventually relieve the Bureau of many of the existing responsibilities prior to the acceptance of this property in trust status. Since there is no anticipated change in use of this property, there are no contemplated impacts or additional duties to the BIA which would result from the acceptance of this land into trust status.

FACTOR 8 (25 CFR 151.10h): The extent to which information has been provided 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 Determination:

Since there is no anticipated change in land use for this property the Tribe is requesting approval of a Categorical Exclusion under NEPA. There have been site visits done by Bureau staff and such Cat Ex has been discussed and verbally accepted. The site visits have also yielded no existing problems or issues as far as contaminants on the property are concerned.

Title Examination (151.13): If the Secretary determines that he will approve a request for the acquisition of land from unrestricted fee status to trust status, he shall acquire, or require the applicant to furnish, title evidence meeting the Standards For The Preparation of Title Evidence in Land Acquisitions by the United States, issued by the U.S. Department of Justice.

In accordance with such requirement we submit the Title Evidence in the form of a US Alta 1991 Policy Commitment issued by the Chicago Title Company dated ~~February 8, 2007~~ attached hereto as Exhibit 4. Attached as Exhibit 5 is the Preliminary Title Report issued by the Chicago Title Company dated August 29, 2006. Contained in Exhibit 6 are copies of all the Exceptions specifically enumerated in Schedule B of such commitment and preliminary title report to which the Tribe passed a Resolution accepting such title exceptions and certifying such exceptions to title do not interfere with the contemplated use of the property, attached hereto as Exhibit 1.

CONCLUSION:

The Tribe is very interested in asserting its jurisdiction over the uses of the reservation lands. As this parcel, if accepted into trust status, would be a part of the reservation and under the land use jurisdiction of the Tribal Government, the impact to the tribe to not accept this property into trust status would impede their ability to enforce any tribal land use designation or restrictions and would also impede their ability to maintain the character of the property and provide a rural border around the current reservation boundary. Acceptance into trust status provides a long term protection for future ownership of the property, for guaranteed future use of the property for the benefit of the Tribe and its members.

The negative impact on the State of California and the County of San Diego of accepting this land into trust status as part of the Pala Reservation would be so minuscule as to be virtually imperceptible.

For all the reasons set forth above, the Tribe respectfully urges its request be granted for this land to be accepted into Federal Trust status and declared a part of the Pala Reservation.