

1. Narrative statement concerning the acquisition of the Rancheria, covering the date of purchase, purchase authority, purpose of purchase, group(s) for whom the land was purchased, etc.; please include copy of title documents and any memoranda or correspondence bearing on whether the Rancheria was intended to be held in trust.

The Big Sandy Rancheria was purchased in 1909 with funds appropriated under the Act of April 30, 1908 (35 Stat. 70, 76) "for the use of the Indians in California...". While this office has not been able to locate correspondence directly relating to the actual purchase, subsequent correspondence reflects that it was purchased by the United States for the use of the San Joaquin or Big Sandy Band of Indians, with title retained in the name of the United States. See attachments 2, 5, 6, and 12 under Title Evidence.

In 1915, because the Northern California Baptist Convention (who owned adjacent land) had inadvertently erected buildings upon a portion of the property belonging to the U.S., it was then proposed that the Baptist Convention exchange some of its own property for ten acres of the government's land. After consideration, the proposal was not accepted, however, by Secretarial Order, the Baptist Convention was allowed to occupy the property for "mission purposes" with the understanding that the use vested no right, title, or interest to the Baptist Convention. See attachment 5 under Title Evidence.

Subsequently, the Northern California Baptist Convention transferred all of their property to the American Baptist Home Mission Society and requested approval by the U.S. concerning

the property at Big Sandy. On November 17, 1936, Secretarial approval was granted. See attachment No. 10 under Title Evidence.

In light of the terminal legislation during the 50's, it appears the Mission Society became concerned about the disposition of the lands upon which their church had placed improvements. Officials of the Mission Society and Congressman Sisk had deliberated a proposed land exchange and presented the proposal to the BIA on several occasions. By letter dated May 14, 1959, (attachment No. 15 of Miscellaneous Correspondence) the Big Sandy group was asked to give their opinion about the exchange and were offered an alternative to the proposal. The negotiations apparently continued for some time after that, but, eventually, all parties agreed to an exchange and appropriate legislation was introduced and passed. See attachment 3 and 4 under Title Evidence.

The land exchange authorized by the Act of August 10, 1961 between the United States and the Mission Society, left a total of 2.5 acres still affected by the "mission reserve". Pursuant to delegated authority, the remaining mission reserve was revoked by the Sacramento Area Director in 1967 thereby restoring clear title to the 2.5 acres in the United States. See attachment 14 under Title Evidence.

By Secretarial Order of June 15, 1970, the same 2.5 acres was relinquished by the United States (Assistant Secretary of

Interior, Harrison Loesch, Public Land Management) with title thereto to be conveyed to the Big Sandy Association in accordance with the approved distribution plan and as was authorized by the Rancheria Act. See attachment 15 under Title Evidence.

Based upon the above events and the correspondence attached hereto, there seems to be no evidence which implies that the subject rancheria lands were intended to be held "in trust" for the San Joaquin or Big Sandy Band of Indians. It should be duly noted, however, that the Indians were consulted when the land exchange was initially proposed in the late 50's, and the existing "general council" passed a resolution concurring with approval of the land exchange. See attachment No. 4 under Tribal Resolutions.

The record reflects that there were no formal land assignments, hence, the eligibility criteria established by the Auburn Indian Council for determining distributees was: "All Indian families who have continuously resided on the Big Sandy Rancheria for the two (2) year period immediately prior to May 1, 1963" (see the distribution plan). Initially, residence on the rancheria was authorized based on an individual's need (see letters of November 9, 1933 and January 10, 1934, attachment 7 and 8 of Title Evidence) and there appears to have been no regard for tribal affiliation.

2. Copy of organic documents for the Auberry Indian Council and the Auberry-Big Sandy Association.

The Auberry Indian Council had no organic documents. From the record, it appears the Auberry Indian Council evolved in 1955 (see letter of May 24, 1955, attachment No. 1 under Miscellaneous Correspondence) and was composed of both rancheria resident and nonresident Indians (see attachment No. 38 of Miscellaneous Correspondence, letter to Commissioner dated October 7, 1964). The council did conduct regular meetings, however, the subjects were centered on termination, land assignments, and operation of the water system. See correspondence under Meetings with Indians.

Prior to the Auberry Council, there is record that the Indians elected a business committee as early as 1935 (see letter dated April 24, 1935, attachment No. 9 of Title Evidence) to handle "affairs of the community". We are presently unable to find record of what comprised "affairs of the community", but can assume that they may have entailed social events or events related to the operation of the Baptist church.

According to the 1937 MacGregor report (attachment No. 11 of Title Evidence), the organization as a self-governing body, did not appeal to the Indians of the Auberry area (see page 5 of the subject report).

The Big Sandy Association was created after passage of the Rancheria Act in order to take title to and manage the community

properties and the water system. The Articles of Association were executed by the distributees on December 8, 1966.

3. Copy of title documents transferring former Rancheria property or assets to the Association.

The copy of the deed transferring title from the U.S. to the Big Sandy Association is attached. The assets distributed consisted of the following:

Parcel 1	-	vacant land
Parcel 5	-	well site
Parcel 14	-	well site, school bldg. site
Parcel 21	-	vacant land
Parcel 22	-	cemetery
Parcel 23	-	vacant land
Parcel 24	-	vacant land
Outlot A	-	storage tank site
Gov't-owned Bldg. #681	-	pump house
Gov't-owned Bldg. #682	-	community house
Water system		

4. Copy of lists of distributees and copy of the documents transferring Rancheria property or assets to distributees.

The distributees are listed on the attached copy of the distribution plan. Copies of the deeds transferring property to the individual distributees are attached.

5. Copy of list of dependent members of distributees' families at time of approval of distribution plan.

See "dependent members" as listed on the distribution plan.

6. Copy of distribution plan, dates of tribal and federal approval; name(s) of official(s) approving plan.

See page 7 of the distribution plan. Attached to the back of the plan is a copy of the results of the referendum election of March 5, 1965.

7. Narrative statement covering information provided by BIA to Indians of the Rancheria concerning termination and its relative advantages and disadvantages. Also describe all representations made to Rancheria Indians. See Complaint, paragraph 59. Any information as to whether BIA represented termination to be mandatory is particularly important. Include a list of all meetings held, subjects discussed, participants and dates along with supporting documentation. Include copy of all correspondence to Indians of the Rancheria concerning termination, the distribution plan, services to be provided, etc.

(paragraph 59 from Complaint: "In order to induce plaintiffs to enter into said contract, defendants represented to plaintiffs that, inter alia termination was mandatory, that services and improvements mentioned in the Rancheria Act would adequately be provided, that funds to pay for said services and improvements mentioned in the Rancheria Act would adequately be provided, that funds to pay for said services and improvements would be available, and that only if the contract were entered into would such services be available to plaintiffs. These representations: termination under the Rancheria Act was not mandatory, no funds actually had been appropriated to carry out the Rancheria Act and the BIA lacked funds with which to provide adequate improvements and services; the BIA had no standards by which to evaluate either the needs of the Indians or the adequacy of the services and improvements provided; and fewer services were available, and to fewer persons, than the Indians had been led to believe.")

Although the Rancheria Act authorized the expenditure of \$509,235, the funds were not appropriated by Congress. By letter

dated August 19, 1958, a copy of which was mailed to Mr. John S. Marvin, representative for the Big Sandy Rancheria, the Indians were advised that BIA would proceed with existing funding because Congress had not appropriated additional monies (attachment 9 under Miscellaneous correspondence). The letter of March 18, 1959 (attachment 13 under Miscellaneous) addressed to Reverend Vernon Brooks, who had made inquiries on behalf of the band, again restated the fact the Congress had not appropriated monies under the Rancheria Act.

The Indians' misconception that improvements were conditioned upon termination were made known to Congressman Sisk, and the matter was discussed with BIA staff. By letter of November 4, 1959 to Mr. and Mrs. John Marvin from Congressman Sisk's staff (see attachment 3 under Roads and Waterline correspondence), it was clearly stated that BIA had no intention of using the band's need for water supply improvements as a means of requiring the Indians to agree to termination.

By letter dated April 15, 1959 to Congressman Sisk, BIA advised that assistance would be provided to the Indians in a land exchange transaction even if the Big Sandy people decided not to avail themselves of the provisions of the Rancheria Act (see attachment 14 under Miscellaneous correspondence).

The Big Sandy group did ask a BIA representative whether or not BIA would proceed with plans to survey the rancheria even if they chose not to participate in the termination process. The

response was that surveys would be done whether or not termination was planned (see Tribal Minutes dated April 3, 1963, attachment 9 under Meetings with Indians).

Sanitation facilities to be undertaken by PHS in accordance with P.L. 86-121 were provided to both terminating and nonterminating rancherias/reservations in California. In reviewing the informational letter to the Big Sandy people, there is no statement made nor was it implied, that termination was mandatory in order to receive sanitation services (see attachment 2 under Sanitation Correspondence).

The HEW letter of June 12, 1968 (attachment 12 under Sanitation Correspondence) directed to California Senator William E. Coombs, regarding the policies of the Indian Health Division, set out the reasons why a feeling had developed among the California Indian groups that they must initiate termination in order to receive consideration to their request for a sanitation project.

See "index" under Meetings with Indians tab which outlines the topics discussed during meetings and/or trips with or by BIA representatives. Below are the names and titles of the participating BIA staff:

Ten Broeck Williamson, Program Officer, Tribal Operations  
Walter J. Wood, Appraiser  
Guy Robertson, Assistant Area Director  
Maurice (Bill) Babby, Program Officer, Tribal Operations  
Consuelo Gosnell, Community Services Officer  
Frederick H. Varnum, Land Operations Officer  
Lawrence J. Badurina, Area Plant Management Officer



Leo Granger, Irrigation Foreman  
Victor T. Courtwright, Tribal Operations Officer  
John E. Jorenby, Realty Officer  
Emmet Lynch, Realty Officer  
Elmer Panky, Housing Officer  
Norman Sahmaunt, Resident Road Engineer (and later as  
Assistant to Area Director)  
Jimmie Wolf, Realty Officer  
Pat Calf Looking, Tribal Operations Officer  
Audrey French, Housing Assistant

As to the standards used to evaluate either the needs of the Indians or the adequacy of the improvements, nothing can be located regarding evaluation of needs, however, improvements to roads, water system, and the installation of sanitation facilities were all inspected by county officials.

8. Narrative statement concerning funding for carrying out the Rancheria Act (see Complaint, paragraph 59).

Although appropriations under the Rancheria Act were not made, BIA made the needed improvements to the Big Sandy Rancheria. Correspondence reflects, however, that these same improvements were to have been made even if the group had chosen not to participate in the Rancheria Act. See attachments 13 and 14 regarding the land exchange under Miscellaneous correspondence, attachment 3 under Roads and Waterline correspondence regarding improvements planned for the water system, attachment 9 under Meetings with Indians regarding the survey of the rancheria.

By letter of March 16, 1964 (attachment 32 under Miscellaneous) to the Commissioner of Indian Affairs, the Sacramento Area

Office advised that an estimated \$19,000 was needed for rehabilitation of the domestic water system and that road construction was estimated to cost between \$125,000 to \$150,000, and that the tentative amounts had been included in fiscal year 1965 budget estimates.

Also, additional funds were requested by letter of September 10, 1964 (attachment 37 under Miscellaneous), in order to complete a survey of the rancheria, and the requested supplement was received per October 7, 1964 memorandum (attachment 39 under Miscellaneous).

By letter of January 13, 1966 to the Commissioner (attachment 2 under Housing), the Area Director requested that \$50,000 be allocated under HIP to improve the housing situation at the rancheria, however, the allocation was not made. (BIA, Sacramento Area Office, received its first allocation under the housing program in 1968 in the amount of \$174,187, none of which was used at the Big Sandy Rancheria.)

The figures readily available show that \$145,955.21 was spent under contract No. 14-20-J50-1354 for the completion of the road work and waterline placement (see attachment 5 under Road and Waterline), \$2,858.00 was spent for well drilling under contract No. 14-20-J50-1400 (attachment 8 under Water Correspondence), and a total of \$7,479.00 was spent for the survey work (attachment 56 under Miscellaneous).

The appointments of conservators were coordinated between BIA, the Fresno County Welfare Department, the County Counsel office, and the Veterans Administration (see attachments 70, 72, 75, 78, and 79 under Miscellaneous), and correspondence as to any direct or indirect costs to the BIA cannot be located.

9. Narrative statements as to: (a) whether Secretarial recognition of Auberry Indian Council was revoked and the period of such revocation;

There is no evidence that the Auberry Indian Council ever received Secretarial recognition. It appears the Council operated on a "general council" basis after May 1955, and there were no organizational documents ever created or which required revocation.

- (b) whether BIA treated the distributees and their dependents as terminated, and the period of same;

The Big Sandy distributees and their dependents were considered by BIA as being terminated as of May 2, 1973 (see Central California Agency inter-office memorandum of May 2, 1973, attachment 92 under Miscellaneous).

The date which BIA considered Big Sandy as not terminated cannot be definitely determined. In response to the BIA Area Director's inquiry of June 27, 1974, Indian Health Service advised BIA in their letter of August 1, 1974 that they felt the water and sanitation systems were inadequate, they planned to do additional work, and that they felt termination was at that time

unwarranted (see attachments 13 and 14 under Sanitation correspondence).

The Commissioner's memorandum of June 25, 1975 states "the Bureau of Indian Affairs, with the concurrence of the Associate Solicitor for Indian Affairs, has determined that termination under both the 1958 Act and the 1964 Amendment does not occur until the section 3 improvements have been adequately completed according to standards which have been set by HEW, . . . .".

Denials to requests for services (see correspondence under Services to Individuals) by the Big Sandy dependent members were made subsequent to May 2, 1973; however, an application dated September 29, 1975 for AVT assistance filed by a dependent member (Rodney Lewis) was approved.

Notifications to the distributees as to restored eligibility for BIA services have not been issued; and all dependent members received notification of restored eligibility as a result of the Eddie Knight case (notifications were dated March 26, 1976 and were sent by certified mail).

The band's requests for BIA assistance and/or advice for the purposes of electing an interim tribal council and application for housing assistance were given approval.

(c) whether BIA treated the distributees and their dependents as ineligible, for BIA services and the period of same. Please determine, if possible, whether any distributee or dependent actually applied for BIA services after approval of the distribution plan and the action taken by BIA respecting such application.

See response to "(b)" above and the material furnished under the tab, Services to Individuals.

(d) whether the Big Sandy Band requested grants, loans, contracts, or other federal benefits or services after approval of the distribution plan and the action taken by BIA respecting such requests. Include copy of all relevant memoranda, correspondence, applications, etc.

The Big Sandy Band negotiated a self-determination grant under P.L. 93-638 on August 14, 1980 in the amount of \$2,000. The contract was amended on August 29, 1980 increasing the grant amount to \$3,940.00 (see tribal resolution of July 25, 1980, attachment No. 6 under Tribal Resolutions).

The Band had also requested an interior lot survey and an archeological survey. No written response can be located to the first request, and the request for an archeological survey was denied because BIA has no authority to expend funds on nontrust lands (see attachments 94 and 97 under Miscellaneous correspondence).

10. Narrative statement describing the nature, conditions and adequacy for present and future needs of the Rancheria's water, sanitation and irrigation systems (a) at the time of distribution plan approval and (b) presently. Include copy of all pertinent memos, correspondence, etc.

At the time the distribution plan was approved, nearly all of the homes were served by a community water system that had been constructed by BIA during the late 1930's, and it was in need of rehabilitation (see first page of the distribution plan). No further description of the old system can be located.

As to the new system, the county officials initially felt that BIA should provide special equipment to enable water distribution to the vacant lots (22, 23, 25, and 27) which, because of their elevation, were not served by the gravity flow water system.

BIA responded by stating that in accordance with the distribution plan, BIA was to provide a safe and adequate domestic water supply for all of the existing homes and to any residence which was under construction that was as much as 50% complete within 180 days after approval of the distribution plan. The Bureau stated that it could not "legally expend funds to provide such service for a potential use . . .". (See March 1, 1966 letter, attachment No. 12 under Water correspondence.)

There is no correspondence which would indicate future irrigation needs (there was no existing system) were assessed, and it is assumed that no consideration was given because of the terrain of the rancheria. Following are descriptions:

"Their homes have been built on knolls and are usually separated by rocky brushy ravines or other topographic barriers." (July 20, 1966 appraisal report at page 8.)

"The rancheria is strictly a homesite area since there is little arable land and the mountainside areas are too steep and brushy for cattle grazing." (April 21, 1966 appraisal report at page 4.)

11. Narrative statement describing any and all improvements to water, sanitation, and irrigation systems of the Rancheria promised, undertaken or completed by BIA in connection with termination. Include copy of all pertinent memos, correspondence, etc.

The plans and specifications for the proposed domestic water distribution system were submitted to the county for review and received the approval of the Fresno County Public Works Department (see March 29, 1965 letter marked as attachment No. 2 under the Water correspondence). The proposed project included the provision of fire hydrants in addition to domestic water to each completed home. (A map showing the location of the pipelines, tanks, etc., is available from the Area Land Operations office if needed.) See attachments 4 & 5 under Roads and Water correspondence for further details.

By letter of February 8, 1966, the county was informed as to the details of the completed domestic water systems (attachment No. 10 under Water correspondence). By letter of February 23, 1966 (attachment No. 11), the Public Health Department expressed several concerns as to the adequacy of the system, offered recommendations, and stated that they had found contamination in a water sample taken from the independent spring-fed supply serving lots 6, 7, and 8.

Subsequent to BIA's March 1, 1966 letter (attachment 12 under Water correspondence) of explanation, the Health Department by letter of March 3, 1966 advised the Director of Public Works that the government-installed water system could be accepted by the Health Department, and that they would advise the Indians as to future protective measures for the private water supplies. BIA apparently continued to work with the Health Department,

Albert Moore, and Wilshire Alec (both distributees) in correcting problems with the spring-fed water supply; see the March 3, 1966 letter (attachment 14 under Water correspondence) to the Area Director from the Health Department.

There appears to have been no funds expended for irrigation purposes (see response to question 10 above). The net charges for various domestic water system improvements incurred at the rancheria since 1938 amounted to \$42,630.31. As best can be determined (see attachment No. 1 under Water correspondence), \$2,372.80 was incurred prior to October 4, 1961 leaving a total of \$40,257.51 being expended between October 1961 and August of 1966. The final domestic water system is described on attachment No. 18 under Water correspondence and on pages 9 and 10 of the July 20, 1966 appraisal report.

The sanitation facilities were furnished by PHS pursuant to P.L. 86-121, and according to the Final Report (a copy of which is on file in BIA's Real Property Management office), the following twelve individuals' homes were served: Wilshire Alec, Minnie Bob, Melba Beecher, Steve Cheepo, Ned Joe, Frank McCabe, Emma Major, Clarence Marvin, Albert Moore, Nellie Riley, May Sample, and Wilbur Beecher. See also, correspondence re Sanitation attached hereto.

12. Narrative statement concerning housing conditions on the Rancheria at time of approval of the distribution plan and presently.



According to BIA's record (see Housing correspondence, letter of January 13, 1966), Public Health Service requested that the county issue building/plumbing permits before undertaking the Big Sandy sanitation project. The January 13 letter states that the applications for five of the homes were denied because of their "deteriorated condition and inadequate size". (In the same letter, the Area Director at that time requested that \$50,000 be allocated under the Bureau's Housing Improvement Program to improve the five homes.) No written response from the Commissioner to the Sacramento Area Office January 13 letter can be located.

The conditions of the homes are described in the July 20, 1966 BIA appraisal report beginning at pages 32, 34, 38, 40, 42, 45, 47, 49, 51, 54, 56, 58, and 60 and also in a trip report, attachment 19 under Meetings with Indians.

By letter of January 17, 1966, the Area Director further advised the Commissioner that PHS was installing the sanitation facilities in three of the five inadequate homes.

The Band received a HUD grant in the amount of \$75,000 with work apparently beginning in February of 1979. The project was to be completed by early 1980, however, BIA has no record of the planned work nor of the actual improvements made, if any.

BIA had set aside \$5,000 under HIP to be used in conjunction with the HUD funds for fiscal year 1980, however, the funds were

withdrawn and used at the Santa Rosa Rancheria because BIA did not receive word from the Big Sandy members as to how the funds were to be used. (See attachment 10 under Housing correspondence.)

ORDER OF ATTACHMENTS

1. Title Evidence/Correspondence (see separate index - 16 attachments)
2. Articles of Association
3. Distribution Plan
4. Miscellaneous Correspondence (see separate index - 104 attachments)
5. Deed to Association
6. Deeds to Individuals
7. Tribal Resolutions (see separate index - 6 attachments)
8. Meetings with Indians (and/or Trip Reports) (see separate index - 23 attachments)
9. Correspondence re Water (see separate index - 18 attachments)
10. Correspondence re Sanitation (see separate index - 14 attachments)
11. Correspondence re Housing (see separate index - 11 attachments)
12. Services to Individuals (includes denials)
13. Correspondence re Roads & Waterline (see separate index - 5 attachments)
14. Appraisal of April 21, 1966 (Parcels 1 & 26)
15. Appraisal of July 20, 1966