



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
California State Office
2135 Butano Drive
Sacramento, California 95825-0451

2000
(CA-931.1)

NOV 20 1998

Mr. Wayne C. Nordwall
Area Director
Bureau of Indian Affairs
P.O. Box 10
Phoenix, AZ 85001

Dear Mr. Nordwall:

This regards the request for patent which you sent us on August 10, 1998 on behalf of the Chemehuevi Indian Tribe. Thank you for sending us such a complete package to document your position.

You request us to issue trust patent for the Chemehuevi Tribe's reservation in California, and have forwarded a suggested land description:

San Bernardino Meridian, California
Fractional Townships: 4 N., R. 25 E., T. 4 N., R. 26 E.,
T. 5 N., 25 E., 6 N., 25 E.; the E/2 of T. 5 N., R. 24 E.,
and Secs. 25, 26, 35 and 36, T. 6 N., R. 24 E.

All the above listed lands are presently included in the Chemehuevi Valley Indian Reservation, which is withdrawn from the public domain, and held in trust for the Chemehuevi Tribe by BIA.

After searching all available Bureau of Land Management (BLM) records, our staff review has identified the following issues.

1. Unavailable Lands. The following lands were conveyed out of the ownership of the United States, and are therefore not within our jurisdiction insofar as Bureau of Land Management knows:
 - T. 4 N., R. 25 E., S.B.M.
 - sec. 16, lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$;
 - sec. 36, all.
 - T. 5 N., R. 25 E., S.B.M.
 - sec. 29, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 - sec. 31, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 - sec. 32, W $\frac{1}{2}$ W $\frac{1}{2}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$.
 - T. 5 N., R. 24 E., S.B.M.
 - sec. 1, N $\frac{1}{2}$, and SW $\frac{1}{4}$;

sec. 36, all.
T. 6 N., R. 24 E., S.B.M.
sec. 36, lots 1-3, and NE¼SE¼.

We are sending you a set of the master title plats for the lands in the patent request. (Encl. 1) If any of the lands have returned to the jurisdiction of the United States and are available for inclusion in the reservation, BLM needs the documentation of the acquisition(s) and any evidence which would demonstrate that the acquired lands are part of the reservation. In order to convey the land, we need copies of the recorded deeds wherein the land returned to the United States, a copy of the title opinion from the Department of Justice or its delegated official, and a statement from the acquiring agency indicating the land has not been conveyed since its acquisition.

2. Survey. The following lands must have a BLM Cadastral Survey on them before they can be patented:

T. 5 N., R. 25 E., S.B.M.
secs. 2,3, 10-15, 22-27, 34, and 35.

Additionally, other areas may need survey depending on the resolution of jurisdictional matters, such as the state line. The boundary between California and Arizona was established by a compact between the two states and confirmed by Congress in P.L. 89-531. According to our records, in T. 5 N., R. 25 E., S.B.M., this boundary cuts through the west bank of Lake Havasu, thereby causing some lands on the western shore to be legally a part of Arizona. The lands affected are sec. 29, lots 2, 3, and 4, and sec. 32, lots 1, 2, and 3. Normally, only the Arizona State Office can patent land in Arizona, so we will need their consent and their assistance to prepare the patent. But additionally, since the laws of Arizona apply to those lands, it is probably necessary to survey out the Arizona lands so that both California and Arizona understand where their respective jurisdictions end.

Other jurisdictional issues which require additional survey may also exist as explained below. In order to have BLM complete the survey so that lands may be patented, you may wish to call Lance Bishop, Chief, Branch of Cadastral Survey at (916) 978-4311. BLM is not funded to do surveys of this magnitude, and you will want to have a source of funding identified before you call.

3. Affected Parties. A number of parties appear to have a vested interest in certain lands in the Chemehuevi Valley Indian Reservation. By copy of this letter, we are notifying the various parties of your request for patent issuance, and giving them the opportunity to comment and submit additional information relevant to patent issuance.

The reservation was established by Secretarial Order of February 2, 1907. On July 8, 1940, 54 Stat. 744 was signed into law, granting to the United States all the right, title, and interest of the Indians to certain lands in the Chemehuevi

Reservation for the Parker Dam project. (Encl. 2, 54 Stat. 744) The law designated the Secretary of the Interior as the official to designate which lands should be taken. The Secretary of the Interior determined the just compensation for the lands taken, and the Metropolitan Water District (MWD) paid the just compensation. Consequently, the Bureau of Reclamation, as administrator of the Parker Dam project, and MWD may be affected by the proposed patent issuance.

On January 22, 1941, President Franklin Roosevelt signed Executive Order 8647, creating the Havasu Lake National Wildlife Refuge on some of the lands taken by the United States for the Parker Dam project in 54 Stat. 744. Various orders added lands to the wildlife refuge, and changed the name to Havasu National Wildlife Refuge. Therefore, the United States Fish and Wildlife Service may be affected by the proposed patent issuance.

On August 15, 1974, the Secretary of the Interior issued a Secretarial Order (S.O.) regarding the ownership by the Chemehuevi Tribe of the riparian lands. The S.O. of 11-1-1974 amended the order of 8-15-1974. (Encl. 3)

Both the original S.O. and the amending S.O., apparently in accordance with the Secretary's power to designate which lands were needed for the project, specified "The Chemehuevi Tribe has full equitable title to all those lands within the Chemehuevi Indian Reservation designated to be taken by Secretary Ickes in 1941 between the operating pool level of Lake Havasu on the east (elevation 450 feet m.s.l.) and the following north and south boundaries . . ." (The north and south boundaries are marked on maps (Encl. 4 and Encl. 5). The order then proceeded to enumerate privileges of the Tribe and of the United States regarding the lands. See item 4 below.

Therefore, although the lands subject to 54 Stat. 744 would not normally be available for patent to the Tribe, the Secretary's determination appears to make them available in Ts. 4 N., Rs. 25 and 26 E., and T. 5 N., R.25 E. There are still reservation lands in Ts. 5 N., Rs. 24 and 25 E., as well as T. 6 N., Rs. 24 and 25 E. which were not included in the Secretarial Order of 11-1-1974. In the absence of any evidence to the contrary, we assume that the reservation lands north of the north boundary indicated in S.O. remain lands of the United States, and that all right, title and interest of the Chemehuevi Tribe to those lands remains terminated. If that is the case, the boundary between the lands which remain wholly the property of the United States and those lands which the United States holds in trust for the Chemehuevis must be surveyed and monumented by BLM Cadastral Survey prior to patent issuance to define which lands may be patented to the Chemehuevi Tribe.

Another issue regarding the interests of the parties which would be affected by the issuance of a patent to the Chemehuevi Tribe is how the patent will affect the Tribe. Currently, the United States holds the reservation lands in trust for

the Tribe, and BIA acts as trustee. If the United States issues patent, the patent will be a trust patent and the United States will hold the reservation land in trust for the Tribe with BIA acting as trustee. In order to make a reasoned decision on issuing the patent, the BLM needs information on how the trust patent will affect the Tribe differently from the current ownership.

4. Conditions of patent. Should patent issue for the reservation lands, the patent will be subject to the conditions and restrictions listed in the S.O. of 11-1-1974 as to the lands covered by that order. These conditions are as follows:

EXCEPTING AND RESERVING TO THE UNITED STATES as to the lands designated in the S.O. of 11-1-1974.

1. The right to deposit spoil and snags from Lake Havasu on said lands at locations mutually agreeable to the United States and the Tribe. Such agreement will not be unreasonably withheld by the Tribe.
2. The right to flood and seep said lands in connection with its operations under the Act of December 21, 1928 (45 Stat. 1057), the Act of August 30, 1935 (49 Stat. 1028), and the said Act of June 28, 1946, (60 Stat. 338), as amended, and the Tribe will not construct or install or permit the construction or installation of any buildings for human habitation on any lands included in this corrected designation that are located within three hundred (300) feet landward of Lake Havasu as measured along a line horizontal to a perpendicular rising from the elevation level of four hundred fifty (450) feet m.s.l.; provided, however, that nothing herein shall be construed as imposing any restriction not now in existence whatsoever with respect to any land not included in this corrected designation which is contiguous to the land so included and which is within three hundred (300) feet landward of Lake Havasu as so measured.
3. The right of the Secretary of the Interior to give prior approval or restrict any construction or installation of improvements on any shoreline lands below the operating pool level of the west bank of Lake Havasu (elevation 450 feet m.s.l.)
4. The right of the United States, its officers, agents and employees at all proper times and places to freely have ingress to, passage over and egress from said lands for the purpose of exercising the rights specified in this order and for all lawful purposes in connection with (i) protection, maintenance and administration of the Havasu National Wildlife Refuge, (ii) United States responsibilities relating to administration of the Chemehuevi Indian reservation and (iii) United States responsibilities relating to Lake Havasu and the Colorado River. The right of ingress, passage, and egress provided for in this subparagraph (4) relate only to said lands and are not intended, nor do they create, any rights with respect to any other lands.

5. The right of the United States to make irrevocable extensions of the permit of any person now entitled to use the aforesaid land until August 15, 1980, if such person shall be determined by the Department of the Interior Office of Hearings and Appeals to be a full-time resident of the permitted lands for a substantial portion of each year.

SUBJECT TO:

1. The rights of all persons holding concession contracts and special use permits referred to in Attachment A of the S.O. of 11-1-1974, during the time that such rights shall exist under the terms of the concession contracts and special use permits, including the right of contractors, concessionaires and permittees under the contracts and permits referred to in Attachment A and their agents, employees and invitees, including the public in the case of concession agreements, to have access to the lands which are the subject of said contracts and permits at such reasonable locations as the Secretary of the Interior may determine.

2. The rights of the Metropolitan Water District of Southern California under that District's contract with the United States, captioned "Cooperative Contract for Construction and Operation of Parker Dam," dated February 10, 1933 (Designated 11r-712), as supplemented and amended by contracts between the same parties dated September 29, 1936, April 7, 1939 and December 16, 1952.

The United States agrees that, should the operating pool level of Lake Havasu be modified to be below the elevation 450 feet m.s.l., the Secretary of the Interior will correct this designation so as to confirm, determine and establish the tribe's full equitable title to all lands between the new operating pool level and the elevation 450 feet m.s.l.

SUMMARY

As outlined above, there are potentially a number of issues involved in issuing a trust patent to the Chemehuevi Tribe for lands in their reservation. BLM does not possess all the facts and relevant information, and must consider all pertinent factors before making a decision.

Recipients of this letter are hereby asked to respond within 30 days of receipt with any comments, additional evidence, documentation, or other material which relates to the request by the Bureau of Indian Affairs for trust patent to issue to the Chemehuevi Band of Mission Indians. This letter does not constitute a decision, and is not subject to appeal. We anticipate issuing a decision to all parties after receiving comments and information from the affected parties.

If you have any questions on the above, please call Nancy Alex of my staff at (916) 978-4674 or David McInay, Chief, Branch of Lands at (916) 978-4671.

Sincerely,

Ed Hastey

Ed Hastey
State Director

5 Enclosures

- Encl. 1 - MTPs
- Encl. 2 - 54 Stat 744
- Encl. 3 - S.O. of 11-1-74
- Encl. 4 - Map locating north boundary
- Encl. 5 - Map locating south boundary

cc: N. Gregory Taylor, General Counsel w/incoming ltr.
Metropolitan Water District
350 South Grant Avenue
Los Angeles, CA 90071

Director w/incoming ltr
Bureau of Reclamation
Regional Office
P.O. Box 61470
Boulder City, NV 89006-1470

Joe Liebhauser w/incoming ltr,
Encl. 1, and survey plats
Bureau of Reclamation
P.O. Box 61470
Boulder City, NV 89006-1470

Fish and Wildlife Service w/incoming ltr, enclosures, and refuge orders
P.O. Box 1306
Albuquerque, NM 87103

Gregory Wolf, Refuge Manager w/incoming ltr, enclosures, and refuge orders
Havasu National Wildlife Refuge
P.O. Box 3009
Needles, CA 92363

Arizona State Office, BLM
w/incoming ltr., Encl. 2-5, and AZ MTP
P.O. Box 555
Phoenix, AZ 85001-0555

Havasu Field Office BLM
w/incoming ltr., and Encl. 2-5
2610 Sweetwater Ave.
Lake Havasu City
AZ 86406-9071

Branch of Cadastral Survey w/incoming ltr., Encl. 2 and 3