



# United States Department of the Interior

Pacific Regional Office  
2800 Cottage Way, Rm 2820  
Sacramento, California 95825

In Reply Refer To:  
Real Estate Services  
TR-4609-P5

Case Number: 15546

Certified Mail - Return Receipt Requested 7019 0140 0000 7334 1691

Honorable Adam Dalton  
Chairman, Jackson Band of Miwuk Indians  
P.O. Box 1090  
Jackson, California 95642

**FEB 26 2020**

Governor's Office of Planning & Research

**MAR 03 2020**

**STATE CLEARINGHOUSE**

## NOTICE OF DECISION

Dear Chairman Dalton:

This decision is a result of our analysis of an application filed by JACKSON RANCHERIA OF MIWUK INDIANS for trust acquisition of fee lands. The property is described as follows:

See "Exhibit A" for legal descriptions.

### Regulatory Authority

The applicable regulations are set forth in the Code of Federal Regulations (CFR) Title 25, Part 151. The regulations specify that it is the Secretary's policy to accept lands "in trust" for the benefit of Tribes when such acquisition is authorized by an Act of Congress; and, (1) when such lands are within the exterior boundaries of the Tribe's reservation, 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 land is necessary to facilitate Tribal self-determination, economic development, or Indian housing.

This acquisition facilitates Tribal Self-Determination. Therefore, it is within the land acquisition policy as set forth by the Secretary of the Interior.

Pursuant to 25 CFR Part 151, the Secretary will consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located within or contiguous to the tribe's reservation, and the acquisition is not mandated:

- (a) The existence of Statutory Authority for the acquisition and any limitations contained in such authority;
- (b) need of the individual Indian or the Tribe for additional land;
- (c) the purpose for which the land will be used;
- (d) if the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs;
- (e) impact on the State and its political subdivisions resulting from removal of the land from the tax rolls;
- (f) jurisdictional problems and potential conflict of land use which may arise;
- (g) whether the Bureau of Indian Affairs (BIA) is equipped to discharge the additional

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responsibilities resulting from the acquisition of the land in trust status; and, (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.

Our review of the requirements to evaluate this Tribal request as set forth in 25 Code of Federal Regulations, § 151.10 (a) through (h), determined the following:

**1. 25 CFR § 151.10 (a) Statutory authority for the acquisition of the property.**

25 U.S.C 5108 INDIAN REORG ACT JUNE 18 1934 (48 STAT. 984)

**2. 25 CFR § 151.10 (b) – The need of the individual Indian or a Tribe for additional land.**

The acquisition of the thirteen contiguous parcels in trust for the Tribe will help establish the Tribe's goals to supply self-sufficiency and the ability to self-govern those additional properties where Tribal housing now exists or is anticipated in the future to meet the needs of its existing members and families. Taking the land into trust would enable the Tribe to exercise governmental jurisdiction over lands currently held by its members, a fundamental element for tribal self-government and sovereignty.

**3. 25 CFR § 151.10 (c) – Purpose for which the property will be used.**

Two (2) of the Thirteen (13) parcels currently have a home occupied by Tribal members. The remaining eleven (11) parcels will eventually be used to provide additional new single-family homes for Tribal members. This will allow the Tribe to modestly expand their housing over time, to accommodate future descendants and other existing Tribal members who do not currently live on the Tribe's Reservation. The current agricultural uses and practices on these properties are expected to continue. No other physical development or changes in the current use of these properties are anticipated. It is our determination that the Jackson Rancheria has an established need for additional land in order to facilitate non-gaming economic development and tribal housing.

**4. 25 CFR § 151.10 (d) – If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs.**

N/A

**5. 25 CFR § 151.10 (e) – Impact on State and its political subdivisions resulting from the removal of this property from the tax rolls.**

A parcel accepted into federal trust status is exempt from taxation and would be removed from the County's taxing jurisdiction. In the 2019-20 tax years, the total tax assessed on the thirteen (13) parcels was \$76,819.48. During the comment period, none of the solicited agencies indicated that any adverse impacts would result from the removal of the subject parcels from the tax rolls. A

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comment letter was received from was the Amador County Counsel dated October 23, 2019 responding to the four (4) questions in the Notice of Application dated September 16, 2019 with no statement of any adverse impact. In addition the County provided the tax information for the thirteen (13) parcels and stated no special assessments known at this time and stated that the intended use is consistent with the current zoning. It is our determination that no significant impact will result from the removal of this property from the county tax rolls.

**6. 25 CFR § 151.10 (f) – Jurisdictional problems and potential conflicts of land use.**

The acceptance of the subject property into federal trust status for the benefit of the Tribe will remove the property from State and local laws concerning real property taxation and other land use regulations. Tribal law will govern these activities after the property is accepted into trust, to much the same extent that it does now on existing trust lands. There will be no change in criminal jurisdiction as jurisdiction in California is subject to 18 U.S.C. § 1163 and 28 U.S.C. § 1360 (P.L. 83-280). The State of California would retain its jurisdiction to enforce its criminal/prohibitory laws against all persons and conduct occurring on the land.

**7. 25 CFR § 151.10 (g) – Whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities.**

The BIA has a trust responsibility for all lands held in trust by the United States for Tribes. The Tribe will manage and oversee the subject property through its Tribal departments and entities. The Tribe has negotiated a Self-Governance Compact with the Department of Interior through the BIA. As such, the additional responsibilities of the BIA would be minimal.

**8. 25 CFR § 151.10 (h) – Environmental Compliance:**

National Environmental Policy Act Compliance

An additional requirement that has to be met when considering land acquisition proposals is the impact upon the human environment pursuant to the criteria of the National Environmental Policy Act of 1969 (NEPA). The BIA's guidelines for NEPA compliance are set forth in the Bureau of Indian Affairs Manual (59 IAM). An environmental assessment (EA) for the proposed action was distributed for public review and comment for the period beginning October 13, 2017 and ending November 13, 2017. The EA documents and analyzes potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, resources use patterns (transportation and land use and agricultural), public services, public health/hazardous materials, and other values (noise and visual resources). Additionally, a Finding of No Significant Impact was published December 18, 2017. Based on the analysis disclosed in the EA, review and consideration of the public comments received during the review period, responses to the comments, and mitigation measures imposed, the Bureau of Indian Affairs has determined that the proposed Federal action is not a major Federal action significantly affecting the quality of human environment within the meaning of NEPA. Therefore, preparation of an Environmental Impact Statement (EIS) is not required.

National Historic Preservation Act (NHPA) Compliance

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Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effects of their land acquisition approvals with the potential to affect historic properties. All the proposed transfer properties requested on behalf of the Tribe are based on the Tribe's need to accommodate additional on-reservation housing for Tribal members. Therefore, the BIA determined there is no potential to affect historic properties on the thirteen (13) parcels.

#### Endangered Species Act (ESA) Compliance

The Endangered Species Act (ESA) requires federal agencies to determine if its action may affect a threatened or endangered species. The BIA reviews concluded no affects to endangered or threatened species would result from this acquisition.

#### Hazardous Substances Determination

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility of conducting a site assessment for the purposes of determining the potential of, and extent of liability from hazardous substances or other environmental remediation or injury. The record includes a negative Phase 1 "Contaminant Survey Checklist" dated May 10, 2018, reflecting that there were no hazardous materials or contaminants.

#### **Conclusion**

Based on the foregoing, we at this time issue notice of our intent to accept the subject real property into trust. The subject acquisition will vest title in the United States of America in trust for the Jackson Rancheria Band of Miwuk Indians in accordance with the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 984; 25 U.S.C. § 5108 (previously § 465)). The applicable regulations are set forth in the Code of Federal Regulations, Title 25, INDIANS, Part 151, as amended.

#### **Notice of Appeal**

Any party who wishes to seek judicial review of this decision must first exhaust administrative remedies. The Regional Director's decision may be appealed to the Interior Board of Indian Appeals (IBIA) in accordance with the regulations in 43 C.F.R. 4.310-4.340.

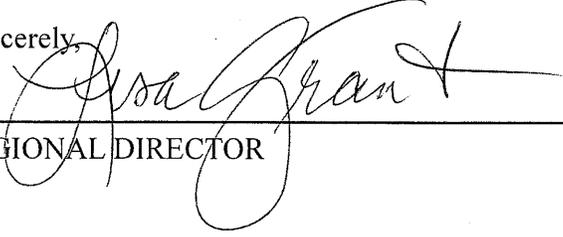
If you choose to appeal this decision, your notice of appeal to the IBIA must be signed by you or your attorney and **must be either postmarked and mailed (if you use mail) or delivered (if you use another means of physical delivery, such as FedEx or UPS) to the IBIA within 30 days from the date of receipt of this decision.** The regulations do not authorize filings by facsimile/fax or by electronic means. Your notice of appeal should clearly identify the decision being appealed. You must send your **original** notice of appeal to the IBIA at the following address: Interior Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Suite 300, Arlington, Virginia 22203. You must send **copies** of your notice of appeal to (1) the Assistant Secretary – Indian Affairs, U.S. Department of the Interior, MS-4141-MIB, 1849 C Street N.W., Washington, D.C. 20240; (2) each interested party known to you; and (3) the Regional Director. Your notice of appeal sent to the IBIA must include a



statement certifying that you have sent copies to these officials and interested parties and should identify them by names or titles and addresses.

If you file a notice of appeal, the IBIA will notify you of further procedures. If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Sincerely,



Acting

REGIONAL DIRECTOR

Enclosure(s)

FTNDD01



Office Codes: J-J-51-522 AD Number: 4200197455 Case: 15546

cc:

**BY CERTIFIED MAIL:**

CALIFORNIA STATE CLEARINGHOUSE OFFICE OF PLANNING AND RESEARCH  
P.O. BOX 3044

SACRAMENTO, CA 95814

Certified Mail ID: 7019 0140 0000 7334 1707

SENIOR ADVISOR FOR TRIBAL NEGOTIATIONS OFFICE OF THE GOVERNOR  
STATE CAPITOL BUILDING, SUITE 1173

SACRAMENTO, CA 95814

Certified Mail ID: 7019 0140 0000 7334 1714

UNITED STATES SENATOR DIANNE FEINSTEIN  
331 HART SENATE BUILDING

WASHINGTON, DC 20510

Certified Mail ID: 7019 0140 0000 7334 1721

SARA DRAKE, DEPUTY ATTORNEY GENERAL STATE OF CALIFORNIA DEPARTMENT  
OF JUSTICE

P.O. BOX 944255

SACRAMENTO, CA 94244-2250

Certified Mail ID: 7019 0140 0000 7334 1738

AMADOR COUNTY ASSESSOR

810 COURT STREET

JACKSON, CA 95642

Certified Mail ID: 7019 0140 0000 7334 1745

AMADOR COUNTY FIRE PROTECTION DISTRICT

810 COURT STREET

JACKSON, CA 95642

Certified Mail ID: 7019 0140 0000 7334 1752

AMADOR COUNTY PLANNING DEPARTMENT

810 COURT STREET

JACKSON, CA 95642

Certified Mail ID: 7019 0140 0000 7334 1769

AMADOR COUNTY PUBLIC WORKS AGENCY

810 COURT STREET

JACKSON, CA 95642

Certified Mail ID: 7019 0140 0000 7334 1776

AMADOR COUNTY BOARD OF SUPERVISORS

810 COURT STREET

JACKSON, CA 95642

Certified Mail ID: 7019 0140 0000 7334 1783

AMADOR COUNTY TAX COLLECTOR

810 COURT STREET

JACKSON, CA 95642

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Certified Mail ID: 7019 0140 0000 7334 1790  
IONE BAND OF MIWOK INDIANS OF CALIFORNIA  
9252 BUSH STREET  
PLYMOUTH, CA 95669  
Certified Mail ID: 7019 0140 0000 7334 1813

**BY FIRST CLASS MAIL:**

BUENA VISTA RANCHERIA OF ME-WUK INDIANS OF CALIFORNIA  
1418 20TH STREET  
SUITE 200  
SACRAMENTO, CA 95811  
7019 0140 0000 7334 1806

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Case Number: 15546

Applicant Name: JACKSON RANCHERIA  
OF ME-WUK INDIANS OF  
CALIFORNIA

### LEGAL DESCRIPTION EXHIBIT A

**Tract ID:**

**Tract Name: # 1**

<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>
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
11	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		11.250

METES AND BOUNDS: ALL THOSE PORTIONS OF LOTS 16 AND 17 OF UNIT 3 OF SUTTON PLACE ACCORDING TO THE FINAL SUBDIVISION MAP THEREOF, FILED FOR RECORD DECEMBER 13, 1982 IN BOOK 5 OF SUBDIVISION MAPS, AT PAGE 3, ET SEQ., RECORDS OF AMADOR COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS: "ADJUSTED LOT 17 AS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY - BOUNDARY LINE ADJUSTMENT FOR IVAN L. BOWMAN AND NORMA W. BOWMAN, FILED FOR RECORD DECEMBER 4, 1987 IN BOOK 42 OF MAPS AND PLATS AT PAGE 23, OF AMADOR COUNTY OFFICIAL RECORDS.

**Tract ID:**

**Tract Name: # 4**

<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>
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
10	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		120.330

METES AND BOUNDS: ALL THAT PORTION OF SECTIONS 10 AND 11, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.M., AMADOR COUNTY, CALIFORNIA DESCRIBED AS FOLLOWS; ALL THAT CERTAIN PARCEL DESIGNATED "CUNEO" ON RECORD OF SURVEY FOR GALE R. CUNEO, FILED FOR RECORD APRIL 30, 1990 IN BOOK 44 OF MAPS AND PLATS, AT PAGE 48, RECORDS OF AMADOR COUNTY.

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
11	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		1.000

METES AND BOUNDS: ALL THAT PORTION OF SECTIONS 10 AND 11, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.M., AMADOR COUNTY, CALIFORNIA DESCRIBED AS FOLLOWS; ALL THAT CERTAIN PARCEL DESIGNATED "CUNEO" ON RECORD OF SURVEY FOR GALE R. CUNEO, FILED FOR RECORD APRIL 30, 1990 IN BOOK 44 OF MAPS AND PLATS, AT PAGE 48, RECORDS OF AMADOR COUNTY.

**Tract ID:**

**Tract Name: # 5**

<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>
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
10	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		40.990

METES AND BOUNDS: ADJUSTED PARCEL B-1, AS SHOWN ON "RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT FOR GEORGE AHAMNOS, BEING A PORTION OF THE EAST 1/2 OF SECTION 10, T. 6 N., R. 11 E., FILED FOR RECORD DECEMBER 30, 1987 IN BOOK 42 OF MAPS AND PLATS AT PAGE 32, RECORDS OF AMADOR COUNTY. TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES 50 FEET IN WIDTH AS THE SAME IS SHOWN AND DELINEATED ON PARCEL MAP NO. 1462 AND PARCEL MAP NO. 1647.

**Tract ID:**

**Tract Name: # 6**

<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>
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
10	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		119.210

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Applicant Name: JACKSON RANCHERIA  
OF ME-WUK INDIANS OF  
CALIFORNIA

Tract ID:

Tract Name: # 6

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
						METES AND BOUNDS: PARCEL ONE: PARCEL B-2 AS SHOWN ON "RECORD OF SURVEY FOR GEORGE AHAMNOS, BEING A PORTION OF THE EAST HALF OF SECTION 10, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.B.&M., FILED FOR RECORD DECEMBER 31, 1987 IN BOOK 42 OF MAPS AND PLATS PAGE 34, AMADOR COUNTY RECORDS. PARCEL TWO: A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES 50 FEET IN WIDTH AS THE SAME IS SHOWN AND DELINEATED ON PARCEL MAP NO. 1462 FILED FOR RECORD JULY 25, 1975 IN BOOK 25 OF MAPS AND PLATS AT PAGE 84, AND ON PARCEL MAP NO. 1647 FILED FOR RECORD MAY 31, 1977 IN BOOK 28 OF MAPS AND PLATS AT PAGE 30, AMADOR COUNTY RECORDS. PARCEL THREE: A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES 50 FEET IN WIDTH AS THE SAME IS SHOWN AND DELINETED ON RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT FOR GEORGE AHAMNOS, FILED FOR RECORD DECEMBER 30, 1987 IN BOOK 42 OF MAPS AND PLATS PAGE 32, AMADOR COUNTY RECORDS.	

Tract ID:

Tract Name: # 7

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
15	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		31.070
						METES AND BOUNDS: PARCEL 1 PARCEL 2, AS THE SAME IS SHOWN ON THE "RECORD OF SURVEY MAP, PORTION OF LANDS OCCUPIED BY JULIUS MONDANI, LYING WITHIN THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.M." RECORDED MARCH 22, 1971 IN BOOK 17 OF MAPS AND PLATS AT PAGE 57, RECORDS OF AMADOR COUNTY. PARCEL 2 A NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT 20 FEET IN WIDTH OVER AND ACROSS PARCEL 1 AS SAID PARCEL AND EASEMENT ARE SHOWN ON THE RECORD OF SURVEY MAPS RECORDED MARCH 22, 1971 IN BOOK 17 OF MAPS AND PLATS PAGE 57, RECORDS OF AMADOR COUNTY.	

Tract ID:

Tract Name: # 8, # 9 AND # 10

Land Area	Land Area Name	Tract Number	LTRO	Region	Agency	Resources
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
15	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		252.580
						METES AND BOUNDS: PARCEL ONE: That parcel of real property labeled "Adjusted Compliance Parcel 1" as shown and described on the Record of Survey for Boundary Line Adjustment filed for record on April 15, 2009 in Book 61 of Maps and Plats at Page 58 in the Office of the County Recorder of Amador County, California. PARCEL TWO: That parcel of real property labeled "Adjusted Compliance Parcel 2" as shown and described on the Record of Survey for Boundary Line Adjustment filed for record on April 15, 2009 in Book 61 of Maps and Plats at Page 58 in the Office of the County Recorder of Amador County, California. PARCEL THREE: That parcel of real property labeled "Compliance Parcel 3" as shown and described on the Record of Survey for Boundary Line Adjustment filed for record on April 15, 2009 in Book 61 of Maps and Plats at Page 58 in the Office of the County Recorder of Amador County, California.	

Section	Township	Range	State	County	Meridian	Legal Description	Acres
16	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		5.460
						METES AND BOUNDS: PARCEL ONE: That parcel of real property labeled "Adjusted Compliance Parcel 1" as shown and described on the Record of Survey for Boundary Line Adjustment filed for record on April 15, 2009 in Book 61 of Maps and Plats at Page 58 in the Office of the County Recorder of Amador County, California.	

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Applicant Name: JACKSON RANCHERIA  
OF ME-WUK INDIANS OF  
CALIFORNIA

Tract ID:

Tract Name: # 11

Land Area	Land Area Name	Tract Number	LTRQ	Region	Agency	Resources	
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)	
Section	Township	Range	State	County	Meridian	Legal Description	Acres
24	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		10.550

METES AND BOUNDS: PARCEL ONE: ALL THAT PORTION OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.M., AMADOR COUNTY, CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A 20" PINE TREE (BLAZED AND SCRIBED) MARKING THE NORTHWEST CORNER OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.M.; THENCE, FROM SAID POINT OF BEGINNING, SOUTH 88 ° 56' 00" EAST, 480.00 FEET TO A 3/4 INCH STEEL ROD TAGGED R.E. 1706; THENCE, SOUTH 01 ° 11' 10" WEST, 959.12 FEET TO A SIMILAR STEEL ROD; THENCE, ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH, WITH A RADIUS OF 950.00 FEET, AN ARC LENGTH OF 109.80 FEET, AND BEING SUBTENDED BY A CORD WHICH BEARS SOUTH 79 ° 25' 40" WEST, 109.74 FEET TO A CONCRETE HIGHWAY MONUMNET; THENCE, SOUTH 76 ° 07' 00" WEST, 330.65 FEET TO A 2 INCH STEEL FENCE CORNER POST; THENCE, NORTH 01 ° 40' 30" WEST, 1067.78 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PROPERTY IS SHOWN ON THAT CERTAIN RECORD OF SURVEY "PROPERTY OF PAUL COOK", FILED FOR RECORD ON OCTOBER 19, 1961 IN BOOK 7 OF MAPS AND PLATS, PAGE 96, AMADOR COUNTY RECORDS. PARCEL TWO: A PORTION OF THAT CERTAIN 0.0903-OF-AN-ACRE PARCEL OF LAND DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED DECEMBER 28, 1953 IN BOOK 53, PAGE 462, AMADOR COUNTY RECORDS, SAID PORTION SITUATE IN THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 11 EAST, M.D.M., AMADOR COUNTY, CALIFORNIA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID 0.0903-OF-AN-ACRE PARCEL; THENCE, ALONG THE NORTHERLY LINE OF SAID PARCEL, SOUTH 89 ° 27' 57" EAST, 11.00 FEET; THENCE, SOUTH 76 ° 07' WEST, 11.33 FEET, TO A POINT IN THE WESTERLY LINE OF SAID 0.0903-OF-AN-ACRE PARCEL; THENCE, ALONG SAID WESTERLY LINE, NORTH 0 ° 02' 50" WEST, 2.82 FEET TO THE POINT OF BEGINNING.

Tract ID:

Tract Name: # 12

Land Area	Land Area Name	Tract Number	LTRQ	Region	Agency	Resources	
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)	
Section	Township	Range	State	County	Meridian	Legal Description	Acres
24	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		10.550

METES AND BOUNDS: PARCEL 1: ALL THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION TWENTY-FOUR (24) IN TOWNSHIP SIX (6) NORTH, OF RANGE 11 E., OF M.D.B. & M. PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SAID SECTION THAT BEARS SOUTH 88 ° 56' EAST, 480 FEET FROM THE NORTHWEST CORNER THEREOF, SAID POINT OF BEGINNING BEING ALSO THE NORTHEAST CORNER OF THE PROPERTY CONVEYED TO FLOYD M. STRICKLAND, ET UX, BY DEED RECORDED DECEMBER 18, 1961 IN BOOK 105, OF OFFICIAL RECORDS, PAGE 484, RECORDS OF AMADOR COUNTY; THENCE SOUTH 88 ° 56' EAST ALONG SAID NORTH LINE, 120 FEET; THENCE SOUTH 01 ° 40' 30" EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SECTION 950.29 FEET MORE OR LESS TO A POINT IN THE NORTH LINE OF CALIFORNIA STATE HIGHWAY ROUTE NO. 88; THENCE FOLLOW ALONG THE LAST SAID NORTH LINE THE FOLLOWING COURSES AND DISTANCES, THENCE; NORTH 88 ° 42' 30" WEST, 26.13 FEET AND SOUTH 87 ° 00' 55" WEST 141.68 FEET TO THE SOUTHEAST CORNER OF THE PROPERTY CONVEYED; THENCE NORTH 01 ° 11' 10" EAST ALONG THE EAST LINE OF THE PROPERTY SO CONVEYED 959.12 FEET TO THE POINT OF BEGINNING. EXCEPTING THEREFROM ANY PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MARCH 5, 1953 IN BOOK 50 OF OFFICIAL RECORDS PAGE 401, RECORDS OF AMADOR COUNTY. ALSO EXCEPTING THEREFROM ALL THAT PORTION OF LAND LYING EASTERLY OF THE LINE DESCRIBED IN THAT QUITCLAIM DEED FILED JULY 20, 1977 IN BOOK 311 AT PAGE 465, OFFICIAL RECORDS OF AMADOR COUNTY. PARCEL 2: TOGETHER WITH AN EASEMENT FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A SEPTIC SYSTEM LEACH FIELD AND APPURTENANCES LYING WITHIN THE COUNTY OF AMADOR, STATE OF CALIFORNIA, AND BEING ALSO WITHIN THAT CERAIN PARCEL OF LAND DELINEATED AND DESIGNATED "10.55 ACS" UPON THAT CERTAIN OFFICIAL MAP ENTITLED "RECORD OF SURVEY PROPERTY OF PAUL LOOK", RECORDED IN THE OFFICE OF THE RECORDER OF AMADOR COUNTY IN BOOK 7 OF MAPS AND PLATS AT PAGE 96; SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING

WD AEA01



Office Codes: JJJ51522 AD Number: 4200197455 Case: 15546

Case Number: 15546

Applicant Name: JACKSON RANCHERIA  
OF ME-WUK INDIANS OF  
CALIFORNIA

Tract ID:

Tract Name: # 12

Land Area	Land Area Name	Tract Number	LTR0	Region	Agency	Resources
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
						AT A POINT ON THE SOUTH LINE OF THE HEREINABOVE REFERRED TO 10.55 ACRE PARCEL OF LAND, FROM WHICH POINT THE SOUTHEAST CORNER THEREOF BEARS NORTH 81 ° 54' 50" EAST 27.36 FEET DISTANT; THENCE, FROM SAID POINT OF BEGINNING, ALONG SAID SOUTH LINE OF SAID 10.55 ACRE PARCEL, ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 950.00 FEET, THROUGH A CENTRAL ANGLE OF 04 ° 58' 20" FOR AN ARC LENGTH OF 82.44 FEET; THENCE SOUTH 76 ° 07' 00" WEST 20.26 FEET; THENCE, LEAVING SAID SOUTH LINE, NORTH 01 ° 11' 10" EAST 107.63 FEET; THENCE SOUTH 88 ° 48' 50" EAST 100.00 FEET; THENCE RUNNING 27.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE HEREINABOVE REFERRED TO 10.55 ACRE PARCEL OF LAND SOUTH 01 ° 11' 10" WEST 84.41 FEET TO THE POINT OF BEGINNING, CONTAINING 0.22 ACRE OF LAND, MORE OR LESS AS GRANTED IN THAT EASEMENT GRANT DEED EXECUTED BY JAMES M. WIDBY ET UX, TO ROBERT N. MORRIS, RECORDED OCTOBER 1, 2002 INST. NO. 2002/0011752 OF AMADOR COUNTY OFFICIAL RECORDS. PARCEL 3: AN EASEMENT FOR THE PURPOSE OF CONSTRUCTING, OPERATING AND MAINTAINING A SEWER LINE AND APPURTENANCES TO THE LEACH FIELD AREA DESCRIBED ABOVE, BEING ON, OVER, UNDER AND THROUGH A STRIP OF LAND THE UNIFORM WIDTH OF TEN (10.00) FEET, THE CENTERLINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF THE HEREINABOVE REFERRED TO 10.55 ACRE PARCEL OF LAND FROM WHICH POINT THE SOUTHEAST CORNER THEREOF BEARS SOUTH 01 ° 11' 10" WEST 40.00 FEET DISTANT; THENCE, FROM SAID POINT OF BEGINNING, NORTH 88 ° 48' 50" WEST 27.00 FEET TO THE WEST LINE OF THE LEACH FIELD EASEMENT DESCRIBED ABOVE, AS GRANTED IN THAT EASEMENT GRANT DEED EXECUTED BY JAMES M. WIDBY, ET UX, TO ROBERT N. MORRIS, RECORDED OCTOBER 1, 2002 INST. NO. 2002/0011752 OF AMADOR COUNTY OFFICIAL RECORDS.	

Tract ID:

Tract Name: # 13

Land Area	Land Area Name	Tract Number	LTR0	Region	Agency	Resources
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
13	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		45.170
						METES AND BOUNDS: PARCEL 1 OF PARCEL MAP NO. 1940, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED FOR RECORD AUGUST 8, 1980 IN BOOK 33 OF MAPS AND PLATS AT PAGE 75, AMADOR COUNTY RECORDS.	
24	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		2.720
						METES AND BOUNDS: PARCEL 1 OF PARCEL MAP NO. 1940, ACCORDING TO THE OFFICIAL MAP THEREOF, FILED FOR RECORD AUGUST 8, 1980 IN BOOK 33 OF MAPS AND PLATS AT PAGE 75, AMADOR COUNTY RECORDS.	

Tract ID:

Tract Name: # 15

Land Area	Land Area Name	Tract Number	LTR0	Region	Agency	Resources
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

Section	Township	Range	State	County	Meridian	Legal Description	Acres
14	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		56.020
						METES AND BOUNDS: PARCEL ONE: PARCEL 10 AS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY - BOUNDARY LINE ADJUSTMENT FOR K.R.L. CORPORATION, ET AL, POR.- SEC. 14 AND 15 TOWNSHIP 6 NORTH RANGE 11 EAST M.D.M., AMADOR COUNTY CALIFORNIA, FILED FOR RECORD ON OCTOBER 19, 1989 IN BOOK 44 OF MAPS AND PLATS, PAGE 4, AMADOR COUNTY RECORDS. PARCEL TWO: A NON-EXCLUSIVE EASEMENT 60 FEET IN WIDTH FOR ACCESS AND PUBLIC UTILITY PURPOSES IN THE LOCATION OF THAT CERTAIN 60' ACCESS AND UTILITY EASEMENT SHOWN ON THE ABOVE REFERENCED MAP AND EXTENDING FROM THE ABOVE DESCRIBED LAND SOUTHERLY TO THE NORTHERLY BOUNDARY OF CALIFORNIA STATE HIGHWAY 88, AMADOR COUNTY.	
15	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		13.980

WD AEA01



Office Codes: JJJ5L522 AD Number: 4200177455 Case: 15546

Case Number: 15546

Applicant Name: JACKSON RANCHERIA  
OF ME-WUK INDIANS OF  
CALIFORNIA

Tract ID:

Tract Name: # 15

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRQ</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
						METES AND BOUNDS: PARCEL ONE: PARCEL 10 AS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY - BOUNDARY LINE ADJUSTMENT FOR K.R.L. CORPORATION, ET AL, POR.- SEC. 14 AND 15 TOWNSHIP 6 NORTH RANGE 11 EAST M.D.M., AMADOR COUNTY CALIFORNIA, FILED FOR RECORD ON OCTOBER 19, 1989 IN BOOK 44 OF MAPS AND PLATS, PAGE 4, AMADOR COUNTY RECORDS. PARCEL TWO: A NON-EXCLUSIVE EASEMENT 60 FEET IN WIDTH FOR ACCESS AND PUBLIC UTILITY PURPOSES IN THE LOCATION OF THAT CERTAIN 60' ACCESS AND UTILITY EASEMENT SHOWN ON THE ABOVE REFERENCED MAP AND EXTENDING FROM THE ABOVE DESCRIBED LAND SOUTHERLY TO THE NORTHERLY BOUNDARY OF CALIFORNIA STATE HIGHWAY 88, AMADOR COUNTY.	

Tract ID:

Tract Name: # 16

<u>Land Area</u>	<u>Land Area Name</u>	<u>Tract Number</u>	<u>LTRQ</u>	<u>Region</u>	<u>Agency</u>	<u>Resources</u>
522	JACKSON		SACRAMENTO, CA	PACIFIC REGIONAL OFFICE	CENTRAL CALIFORNIA AGENCY	Both (Mineral and Surface)

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>State</u>	<u>County</u>	<u>Meridian</u>	<u>Legal Description</u>	<u>Acres</u>
14	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		82.170

METES AND BOUNDS: PARCEL ONE: PARCEL 11 AS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY - BOUNDARY LINE ADJUSTMENT FOR KRL CORPORATION, ET. AL., "POR. SEC. 14 & 15, T. 6 N., R. 11 E., M.D.M., AMADOR COUNTY, CALIFORNIA", FILED FOR RECORD OCTOBER 19, 1989 IN BOOK "44" OF MAPS AND PLATS, AT PAGE 4, ET SEQ., RECORDS OF AMADOR COUNTY. PARCEL TWO: A NON-EXCLUSIVE EASEMENT 60 FEET IN WIDTH FOR ACCESS AND PUBLIC UTILITY PURPOSES IN THE LOCATION OF THAT CERTAIN "60' ACCESS & UTILITY EASEMENT" SHOWN ON THE ABOVE REFERENCED MAP, AND EXTENDING FROM THE ABOVE DESCRIBED LAND SOUTHERLY TO THE NORTHERLY BOUNDARY OF CALIFORNIA STATE HIGHWAY NO. 88.

15	006.00N	011.00E	CALIFORNIA	AMADOR	Mount Diablo		26.090
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METES AND BOUNDS: PARCEL ONE: PARCEL 11 AS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY - BOUNDARY LINE ADJUSTMENT FOR KRL CORPORATION, ET. AL., "POR. SEC. 14 & 15, T. 6 N., R. 11 E., M.D.M., AMADOR COUNTY, CALIFORNIA", FILED FOR RECORD OCTOBER 19, 1989 IN BOOK "44" OF MAPS AND PLATS, AT PAGE 4, ET SEQ., RECORDS OF AMADOR COUNTY. PARCEL TWO: A NON-EXCLUSIVE EASEMENT 60 FEET IN WIDTH FOR ACCESS AND PUBLIC UTILITY PURPOSES IN THE LOCATION OF THAT CERTAIN "60' ACCESS & UTILITY EASEMENT" SHOWN ON THE ABOVE REFERENCED MAP, AND EXTENDING FROM THE ABOVE DESCRIBED LAND SOUTHERLY TO THE NORTHERLY BOUNDARY OF CALIFORNIA STATE HIGHWAY NO. 88.

WD AEA01



Office Codes: JJJ-51-522 AD Number: 4200197455 Case: 15546

**Office of the Secretary, Interior**

**§ 4.310**

state specifically and concisely the grounds upon which it is based.

(b) *Notice; burden of proof.* The OHA deciding official will, upon receipt of a demand for hearing, set a time and place therefor and must mail notice thereof to all parties in interest not less than 30 days in advance; provided, however, that such date must be set after the expiration of the 60-day period fixed for the filing of the demand for hearing as provided in § 4.305(a). At the hearing, each party challenging the tribe's claim to purchase the interests in question or the valuation of the interests as set forth in the valuation report will have the burden of proving his or her position.

(c) *Decision after hearing; appeal.* Upon conclusion of the hearing, the OHA deciding official will issue a decision which determines all of the issues including, but not limited to, a judgment establishing the fair market value of the interests purchased by the tribe, including any adjustment thereof made necessary by the surviving spouse's decision to reserve a life estate in one-half of the interests. The decision must specify the right of appeal to the Board of Indian Appeals within 60 days from the date of the decision in accordance with §§ 4.310 through 4.323. The OHA deciding official must lodge the complete record relating to the demand for hearing with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

**§ 4.306 Time for payment.**

A tribe must pay the full fair market value of the interests purchased, as set forth in the valuation report or as determined after hearing in accordance with § 4.305, whichever is applicable, within 2 years from the date of decedent's death or within 1 year from the date of notice of purchase, whichever comes later.

**§ 4.307 Title.**

Upon payment by the tribe of the interests purchased, the Superintendent must issue a certificate to the OHA deciding official that this has been done and file therewith such documents in

support thereof as the OHA deciding official may require. The OHA deciding official will then issue an order that the United States holds title to such interests in trust for the tribe, lodge the complete record, including the decision, with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

**§ 4.308 Disposition of income.**

During the pendency of the probate and up to the date of transfer of title to the United States in trust for the tribe in accordance with § 4.307, all income received or accrued from the land interests purchased by the tribe will be credited to the estate.

CROSS REFERENCE: See 25 CFR part 2 for procedures for appeals to Area Directors and to the Commissioner of the Bureau of Indian Affairs.

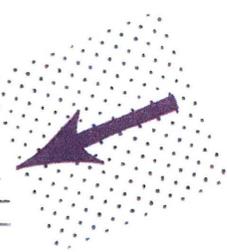
GENERAL RULES APPLICABLE TO PROCEEDINGS ON APPEAL BEFORE THE INTERIOR BOARD OF INDIAN APPEALS

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

**§ 4.310 Documents.**

(a) *Filing.* The effective date for filing a notice of appeal or other document with the Board during the course of an appeal is the date of mailing or the date of personal delivery, except that a motion for the Board to assume jurisdiction over an appeal under 25 CFR 2.20(e) will be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings must be served on all parties in interest in any proceeding before the Interior Board of Indian Appeals by the party filing the notice or pleading with the Board. Service must be accomplished upon personal delivery or mailing. Where a party is represented in an appeal by an attorney or other representative authorized under 43 CFR 1.3, service of any document on the attorney or representative is service on the party. Where a party is represented by more than one attorney, service on any one attorney is sufficient. The certificate of service on an attorney or



#### §4.311

representative must include the name of the party whom the attorney or representative represents and indicate that service was made on the attorney or representative.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed or answered was served or the day of any other event after which a designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days are excluded in the computation.

(d) *Extensions of time.* (1) The time for filing or serving any document except a notice of appeal may be extended by the Board.

(2) A request to the Board for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the Board may grant an extension of time on its own initiative.

(e) *Retention of documents.* All documents received in evidence at a hearing or submitted for the record in any proceeding before the Board will be retained with the official record of the proceeding. The Board, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Board.

#### §4.311 Briefs on appeal.

(a) The appellant may file an opening brief within 30 days after receipt of the notice of docketing. Appellant must serve copies of the opening brief upon all interested parties or counsel and file a certificate with the Board showing service upon the named parties. Opposing parties or counsel will have 30 days from receipt of appellant's brief

#### 43 CFR Subtitle A (10-1-03 Edition)

to file answer briefs, copies of which must be served upon the appellant or counsel and all other parties in interest. A certificate showing service of the answer brief upon all parties or counsel must be attached to the answer filed with the Board.

(b) Appellant may reply to an answering brief within 15 days from its receipt. A certificate showing service of the reply brief upon all parties or counsel must be attached to the reply filed with the Board. Except by special permission of the Board, no other briefs will be allowed on appeal.

(c) The BIA is considered an interested party in any proceeding before the Board. The Board may request that the BIA submit a brief in any case before the Board.

(d) An original only of each document should be filed with the Board. Documents should not be bound along the side.

(e) The Board may also specify a date on or before which a brief is due. Unless expedited briefing has been granted, such date may not be less than the appropriate period of time established in this section.

#### §4.312 Decisions.

Decisions of the Board will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion, or order of a BIA official or an OHA deciding official. Distribution of decisions must be made by the Board to all parties concerned. Unless otherwise stated in the decision, rulings by the Board are final for the Department and must be given immediate effect.

#### §4.313 Amicus Curiae; intervention; joinder motions.

(a) Any interested person or Indian tribe desiring to intervene or to join other parties or to appear as amicus curiae or to obtain an order in an appeal before the Board must apply in writing to the Board stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to limitations established by the Board. This section will be liberally construed.

(b) Motions to intervene, to appear as amicus curiae, to join additional parties, or to obtain an order in an appeal pending before the Board must be served in the same manner as appeal briefs.

**§ 4.314 Exhaustion of administrative remedies.**

(a) No decision of an OHA deciding official or a BIA official, which at the time of its rendition is subject to appeal to the Board, will be considered final so as to constitute agency action subject to judicial review under 5 U.S.C. 704, unless made effective pending decision on appeal by order of the Board.

(b) No further appeal will lie within the Department from a decision of the Board.

(c) The filing of a petition for reconsideration is not required to exhaust administrative remedies.

**§ 4.315 Reconsideration.**

(a) Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Board within 30 days from the date of the decision and must contain a detailed statement of the reasons why reconsideration should be granted.

(b) A party may file only one petition for reconsideration.

(c) The filing of a petition will not stay the effect of any decision or order and will not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Board.

**§ 4.316 Remands from courts.**

Whenever any matter is remanded from any federal court to the Board for further proceedings, the Board will either remand the matter to an OHA deciding official or to the BIA, or to the extent the court's directive and time limitations will permit, the parties will be allowed an opportunity to submit to the Board a report recommending procedures for it to follow to comply with the court's order. The Board will enter special orders governing matters on remand.

**§ 4.317 Standards of conduct.**

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board must be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of Hearings and Appeals will determine the matter of disqualification.

**§ 4.318 Scope of review.**

An appeal will be limited to those issues which were before the OHA deciding official upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the BIA official on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board will not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

APPEALS TO THE BOARD OF INDIAN  
APPEALS IN PROBATE MATTERS

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

**§ 4.320 Who may appeal.**

(a) A party in interest has a right to appeal to the Board from an order of an OHA deciding official on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(b) *Notice of appeal.* Within 60 days from the date of the decision, an appellant must file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. A

#### § 4.321

statement of the errors of fact and law upon which the appeal is based must be included in either the notice of appeal or in any brief filed. The notice of appeal must include the names and addresses of parties served. A notice of appeal not timely filed will be dismissed for lack of jurisdiction.

(c) Service of copies of notice of appeal. The appellant must personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy must be served upon the OHA deciding official whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board must include a certification that service was made as required by this section.

(d) Action by the OHA deciding official; record inspection. The OHA deciding official, upon receiving a copy of the notice of appeal, must notify the Superintendent concerned to return the duplicate record filed under §§ 4.236(b) and 4.241(d), or under § 4.242(f) of this part, to the Land Titles and Records Office designated under § 4.236(b) of this part. The duplicate record must be conformed to the original by the Land Titles and Records Office and will thereafter be available for inspection either at the Land Titles and Records Office or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the OHA deciding official will have a transcript prepared which must be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

[66 FR 67656, Dec. 31, 2001, as amended at 67 FR 4368, Jan. 30, 2002]

#### § 4.321 Notice of transmittal of record on appeal.

The original record on appeal must be forwarded by the Land Titles and Records Office to the Board by certified mail. Any objection to the record as constituted must be filed with the Board within 15 days of receipt of the notice of docketing issued under § 4.332 of this part.

#### § 4.322 Docketing.

The appeal will be docketed by the Board upon receipt of the administrative record from the Land Titles and

#### 43 CFR Subtitle A (10-1-03 Edition)

Records Office. All interested parties as shown by the record on appeal must be notified of the docketing. The docketing notice must specify the time within which briefs may be filed and must cite the procedural regulations governing the appeal.

#### § 4.323 Disposition of the record.

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcripts prepared because of the appeal and the Board's decision, must be forwarded by the Board to the Land Titles and Records Office designated under § 4.236(b) of this part. Upon receipt of the record by the Land Titles and Records Office, the duplicate record required by § 4.320(c) of this part must be conformed to the original and forwarded to the Superintendent concerned.

#### APPEALS TO THE BOARD OF INDIAN APPEALS FROM ADMINISTRATIVE ACTIONS OF OFFICIALS OF THE BUREAU OF INDIAN AFFAIRS: ADMINISTRATIVE REVIEW IN OTHER INDIAN MATTERS NOT RELATING TO PROBATE PROCEEDINGS

SOURCE: 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

#### § 4.330 Scope.

(a) The definitions set forth in 25 CFR 2.2 apply also to these special rules. These regulations apply to the practice and procedure for: (1) Appeals to the Board of Indian Appeals from administrative actions or decisions of officials of the Bureau of Indian Affairs issued under regulations in 25 CFR chapter 1, and (2) administrative review by the Board of Indian Appeals of other matters pertaining to Indians which are referred to it for exercise of review authority of the Secretary or the Assistant Secretary—Indian Affairs.

(b) Except as otherwise permitted by the Secretary or the Assistant Secretary—Indian Affairs by special delegation or request, the Board shall not adjudicate:

- (1) Tribal enrollment disputes;

(2) Matters decided by the Bureau of Indian Affairs through exercise of its discretionary authority; or

(3) Appeals from decisions pertaining to final recommendations or actions by officials of the Minerals Management Service, unless the decision is based on an interpretation of Federal Indian law (decisions not so based which arise from determinations of the Minerals Management Service, are appealable to the Interior Board of Land Appeals in accordance with 43 CFR 4.410).

**§4.331 Who may appeal.**

Any interested party affected by a final administrative action or decision of an official of the Bureau of Indian Affairs issued under regulations in title 25 of the Code of Federal Regulations may appeal to the Board of Indian Appeals, except—

(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official;

(b) Where the decision has been approved in writing by the Secretary or Assistant Secretary—Indian Affairs prior to promulgation; or

(c) Where otherwise provided by law or regulation.

**§4.332 Appeal to the Board; how taken; mandatory time for filing; preparation assistance; requirement for bond.**

(a) A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative as provided by 43 CFR 1.3, and filed with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203, within 30 days after receipt by the appellant of the decision from which the appeal is taken. A copy of the notice of appeal shall simultaneously be filed with the Assistant Secretary—Indian Affairs. As required by §4.333 of this part, the notice of appeal sent to the Board shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction. A notice of appeal shall include:

(1) A full identification of the case;

(2) A statement of the reasons for the appeal and of the relief sought; and

(3) The names and addresses of all additional interested parties, Indian tribes, tribal corporations, or groups having rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in the earlier proceedings.

(b) In accordance with 25 CFR 2.20(c) a notice of appeal shall not be effective for 20 days from receipt by the Board, during which time the Assistant Secretary—Indian Affairs may decide to review the appeal. If the Assistant Secretary—Indian Affairs properly notifies the Board that he has decided to review the appeal, any documents concerning the case filed with the Board shall be transmitted to the Assistant Secretary—Indian Affairs.

(c) When the appellant is an Indian or Indian tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal.

(d) At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved.

[54 FR 6487, Feb. 10, 1989, as amended at 67 FR 4368, Jan. 30, 2002]

**§4.333 Service of notice of appeal.**

(a) On or before the date of filing of the notice of appeal the appellant shall serve a copy of the notice upon each known interested party, upon the official of the Bureau of Indian Affairs from whose decision the appeal is taken, and upon the Assistant Secretary—Indian Affairs. The notice of appeal filed with the Board shall certify that service was made as required by this section and shall show the names and addresses of all parties served. If the appellant is an Indian or an Indian tribe not represented by counsel, the appellant may request the official of the Bureau whose decision is appealed to assist in service of copies of the notice of appeal and any supporting documents.

#### § 4.334

(b) The notice of appeal will be considered to have been served upon the date of personal service or mailing.

#### § 4.334 Extensions of time.

Requests for extensions of time to file documents may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal which, as specified in § 4.332 of this part, may not be extended.

#### § 4.335 Preparation and transmittal of record by official of the Bureau of Indian Affairs.

(a) Within 20 days after receipt of a notice of appeal, or upon notice from the Board, the official of the Bureau of Indian Affairs whose decision is appealed shall assemble and transmit the record to the Board. The record on appeal shall include, without limitation, copies of transcripts of testimony taken; all original documents, petitions, or applications by which the proceeding was initiated; all supplemental documents which set forth claims of interested parties; and all documents upon which all previous decisions were based.

(b) The administrative record shall include a Table of Contents noting, at a minimum, inclusion of the following:

- (1) The decision appealed from;
- (2) The notice of appeal or copy thereof; and
- (3) Certification that the record contains all information and documents utilized by the deciding official in rendering the decision appealed.

(c) If the deciding official receives notification that the Assistant Secretary—Indian Affairs has decided to review the appeal before the administrative record is transmitted to the Board, the administrative record shall be forwarded to the Assistant Secretary—Indian Affairs rather than to the Board.

#### § 4.336 Docketing.

An appeal shall be assigned a docket number by the Board 20 days after receipt of the notice of appeal unless the Board has been properly notified that the Assistant Secretary—Indian Affairs has assumed jurisdiction over the appeal. A notice of docketing shall be sent to all interested parties as shown

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by the record on appeal upon receipt of the administrative record. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing. The docketing notice shall specify the time within which briefs shall be filed, cite the procedural regulations governing the appeal and include a copy of the Table of Contents furnished by the deciding official.

#### § 4.337 Action by the Board.

(a) The Board may make a final decision, or where the record indicates a need for further inquiry to resolve a genuine issue of material fact, the Board may require a hearing. All hearings shall be conducted by an administrative law judge of the Office of Hearings and Appeals. The Board may, in its discretion, grant oral argument before the Board.

(b) Where the Board finds that one or more issues involved in an appeal or a matter referred to it were decided by the Bureau of Indian Affairs based upon the exercise of discretionary authority committed to the Bureau, and the Board has not otherwise been permitted to adjudicate the issue(s) pursuant to § 4.330(b) of this part, the Board shall dismiss the appeal as to the issue(s) or refer the issue(s) to the Assistant Secretary—Indian Affairs for further consideration.

#### § 4.338 Submission by administrative law judge of proposed findings, conclusions and recommended decision.

(a) When an evidentiary hearing pursuant to § 4.337(a) of this part is concluded, the administrative law judge shall recommend findings of fact and conclusions of law, stating the reasons for such recommendations. A copy of the recommended decision shall be sent to each party to the proceeding, the Bureau official involved, and the Board. Simultaneously, the entire record of the proceedings, including the transcript of the hearing before the administrative law judge, shall be forwarded to the Board.

(b) The administrative law judge shall advise the parties at the conclusion of the recommended decision of their right to file exceptions or other

comments regarding the recommended decision with the Board in accordance with § 4.339 of this part.

**§ 4.339 Exceptions or comments regarding recommended decision by administrative law judge.**

Within 30 days after receipt of the recommended decision of the administrative law judge, any party may file exceptions to or other comments on the decision with the Board.

**§ 4.340 Disposition of the record.**

Subsequent to a decision by the Board, the record filed with the Board and all documents added during the appeal proceedings, including the Board's decision, shall be forwarded to the official of the Bureau of Indian Affairs whose decision was appealed for proper disposition in accordance with rules and regulations concerning treatment of Federal records.

**WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985; AUTHORITY OF ADMINISTRATIVE JUDGES; DETERMINATIONS OF THE HEIRS OF PERSONS WHO DIED ENTITLED TO COMPENSATION**

SOURCE: 56 FR 61383, Dec. 3, 1991, unless otherwise noted.

**§ 4.350 Authority and scope.**

(a) The rules and procedures set forth in §§ 4.350 through 4.357 apply only to the determination through intestate succession of the heirs of persons who died entitled to receive compensation under the White Earth Reservation Land Settlement Act of 1985, Public Law 99-264 (100 Stat. 61), amended by Public Law 100-153 (101 Stat. 886) and Public Law 100-212 (101 Stat. 1433).

(b) Whenever requested to do so by the Project Director, an administrative judge shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Settlement Act of 1985 as amended, notwithstanding the decedent may have died testate.

(c) As used herein, the following terms shall have the following meanings:

(1) The term *Act* means the White Earth Reservation Land Settlement Act of 1985 as amended.

(2) The term *Board* means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary.

(3) The term *Project Director* means the Superintendent of the Minnesota Agency, Bureau of Indian Affairs, or other Bureau of Indian Affairs official with delegated authority from the Minneapolis Area Director to serve as the federal officer in charge of the White Earth Reservation Land Settlement Project.

(4) The term *party (parties) in interest* means the Project Director and any presumptive or actual heirs of the decedent, or of any issue of any subsequently deceased presumptive or actual heir of the decedent.

(5) The term *compensation* means a monetary sum, as determined by the Project Director, pursuant to section 8(c) of the Act.

(6) The term *administrative judge* means an administrative judge or an administrative law judge, attorney-advisor, or other appropriate official of the Office of Hearings and Appeals to whom the Director of the Office of Hearings and Appeals has redelegated his authority, as designee of the Secretary, for making heirship determinations as provided for in these regulations.

(7) The term *appellant* means a party aggrieved by a final order or final order upon reconsideration issued by an administrative judge who files an appeal with the Board.

[56 FR 61383, Dec. 3, 1991; 56 FR 65782, Dec. 18, 1991, as amended at 64 FR 13363, Mar. 18, 1999]

**§ 4.351 Commencement of the determination process.**

(a) Unless an heirship determination which is recognized by the Act already exists, the Project Director shall commence the determination of the heirs of those persons who died entitled to receive compensation by filing with the administrative judge all data, identifying the purpose for which they are being submitted, shown in the records relative to the family of the decedent.

(b) The data shall include but are not limited to: