



STATE OF CALIFORNIA

Governor's Office of Planning and Research  
State Clearinghouse



Gray Davis  
GOVERNOR  
April 5, 2000

Loretta Lynch  
DIRECTOR

TO: Reviewing Agencies (see attached list)

RE: SCH# 99-015: Notice of Land Acquisition Application to Transfer Property into Trust for the Karuk Tribe by the United States (Siskiyou & Humboldt County).

Enclosed for your review and comment is a notice from the Department of Interior, Bureau of Indian Affairs (BIA) regarding the above referenced application for transfer of land to Indian trust. Transferring land from private ownership to Indian trust removes the land from the property tax roll and essentially exempts it from State and local codes and regulations. For example, development of Indian trust land is not subject to either local zoning codes or the California Environmental Quality Act.

Please review the proposal and respond to the BIA within 30 days of receipt of this notice, with concurrent copies to the State Clearinghouse, the California Department of Justice (to the attention of Deputy Attorney General Sara Drake), and the Governor's Office of Legal Affairs (to the attention of Chief Deputy Legal Affairs Secretary Robert Shuman).

Please direct comments to:

**Elaina M. Doyle**  
Bureau of Indian Affairs  
Sacramento Area Office  
2800 Cottage Way  
Sacramento, California 95825

If you have any questions on this matter, please call us at (916) 445-0613. Also, comments may be faxed to us at (916) 323-3018. Thank you for your cooperation.

Sincerely,

Terry Roberts,  
Senior Planner, State Clearinghouse

Enclosure

# BIA Distribution List

\* Select one or more from these three groups

Sara Drake  
Deputy Attorney General  
Department of Justice

Bob Shuman  
Chief Deputy, Legal Affairs  
Governor's Office

## Resources Agency

Nadell Gayou  
Resources Agency  
1020 Ninth Street, Third Floor  
Sacramento, CA 95814  
916/327-1722 Fax 916/327-1648

Susie Betzler  
Dept. of Boating & Waterways  
1629 S Street  
Sacramento, CA 95814  
916/445-6281 Fax 916/327-7250

Elizabeth A. Fuchs  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219  
415/904-5200 Fax 415/904-5400

Ken Trott  
Dept. of Conservation  
801 K Street, MS-24-02  
Sacramento, CA 95814  
916/445-8733 Fax 916/324-0948

Allen Robertson  
Dept. of Forestry & Fire Protection  
1416 Ninth Street, Room 1516-24  
Sacramento, CA 95814  
916/657-0300 Fax 916/653-8957

Hans Kreutzberg  
Office of Historic Preservation  
P.O. Box 942896  
Sacramento, CA 94296-0001  
916/653-6624 Fax 916/653-9824

Beth Walls  
Resource Management Division  
Dept. of Parks and Recreation  
P.O. Box 942896  
Sacramento, CA 94296-0001  
916/653-6725 Fax 916/657-3355

Pam Bruner  
Reclamation Board  
1416 Ninth Street, Room 1601  
Sacramento, CA 95814  
916/653-5434 Fax 916/653-5805

Steve McAdam  
S.F. Bay Conservation & Dev't. Comm.  
30 Van Ness Avenue, Room 2011  
San Francisco, CA 94102  
415/557-3686 Fax 415/557-3767

## Health & Welfare

Wayne Hubbard  
Dept. of Health/Drinking Water  
601 N. 7th Street, PO Box 942732  
Sacramento, CA 94234-7320  
916/445-2519 Fax 916/327-6092

## \* Fish and Game

Joe Vincenty  
Department of Fish and Game  
Environmental Services Division  
1416 Ninth Street, 13th Floor  
Sacramento, CA 95814  
916/653-1070 Fax 916/653-2588

Donald Koch (Region 1)  
Department of Fish and Game  
601 Locust Street  
Redding, CA 96001  
530/225-2363 Fax 530/225-2381

Banky Curtis (Region 2)  
Department of Fish & Game  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670  
916/358-2898 Fax 916/358-2912

Brian Hunter (Region 3)  
Department of Fish and Game  
P.O. Box 47  
Yountville, CA 94599  
707/944-5518 Fax 707/944-5563

George Nokes (Region 4)  
Department of Fish and Game  
1234 East Shaw Avenue  
Fresno, CA 93710  
559/445-6152 Fax 559/445-6607

Sandy Peterson (Region 5)  
Department of Fish and Game  
Habitat Conservation Program  
4949 Viewridge Avenue  
San Diego, CA 92123  
858/467-4234 Fax 858/467-4299

Cheryl Avants (Region 6)  
Department of Fish and Game  
Habitat Conservation Program  
330 Golden Shore, Suite 50  
Long Beach, CA 90802  
562/590-5159 Fax 562/590-5192

Tammy Allen (Region 6, Inyo/Mono)  
Department of Fish and Game  
Habitat Conservation Program  
407 West Line Street, Room 8  
Bishop, CA 93514  
760/872-1461 Fax 760/872-1284

DeWayne Johnston (Marine Region)  
Department of Fish and Game  
20 Lower Ragsdale Drive, Suite 100  
Monterey, CA 93940  
831/649-2870 Fax 831/649-2894

## Independent Commissions/Agencies

Greg Newhouse  
California Energy Commission  
1516 Ninth Street, MS-15  
Sacramento, CA 95814  
916/654-5000 Fax 916/654-3882

Debbie Treadway  
Native American Heritage Comm.  
915 Capitol Mall, Room 364  
Sacramento, CA 95814  
916/653-4082 Fax 916/657-5390

Andrew Barnsdale  
Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
415/703-3231 Fax 415/703-1184

Betty Silva  
State Lands Commission  
100 Howe Avenue, Suite 100-S  
Sacramento, CA 95825  
916/574-1872 Fax 916/574-1885

Gerald R. Zimmerman  
Colorado River Board  
770 Fairmont Avenue, Suite 100  
Glendale, CA 91203-1035  
818/543-4676 Fax 818/543-4685

Tahoe Regional Planning  
Environmental Review  
P.O. Box 1038  
Zephyr Cove, NV 89448  
702/588-4547 Fax 702/588-4527

John Rowden, Manager  
Office of Emergency Services  
11030 White Rock Road, Ste.110  
Rancho Cordova, CA 95670  
916/464-1014 Fax 916/464-1019

Debby Eddy  
Delta Protection Commission  
P.O. Box 530  
Walnut Grove, CA 95690  
916/776-2290 FAX 776-2293

## \* Department of Transportation District Contacts

IGR/Planning  
Caltrans, District 1  
P.O. Box 3700  
Eureka, CA 95502-3700  
707/441-5812 Fax 707/441-5869

Vicki Roe  
Local Development Review  
Caltrans, District 2  
P.O. Box 496073  
Redding, CA 96049-6073  
530/225-3089 Fax 530/225-3271

Jeff Pulverman  
Caltrans, District 3  
P.O. Box 942874 MS-41  
Sacramento, CA 94274-0001  
916/327-3859 Fax 916/323-7669

Jean Finney  
Caltrans, District 4  
P.O. Box 23660  
Oakland, CA 94623-0660  
510/286-5572 Fax 510/286-5513

Lawrence Newland  
Caltrans, District 5  
50 Higuera Street  
San Luis Obispo, CA 93401-5415  
805/549-3683 Fax 805/549-3077

Marc Birnbaum  
Caltrans, District 6  
P.O. Box 12616  
Fresno, CA 93778-2616  
559/488-4260 Fax 559/488-4088

Stephen J. Buswell  
Caltrans, District 7  
120 South Spring Street, 1-10C  
Los Angeles, CA 90012  
213/897-4429 Fax 213/897-9210

Mike Sim  
Caltrans, District 8  
464W, 4th Street, 7th Floor  
San Bernardino, CA 92401-1400  
909/383-4808 Fax 909/383-5936

Robert Ruhnke  
Caltrans, District 9  
500 South Main Street  
Bishop, CA 93514  
760/872-0689 Fax 760/872-0678

Chris Sayre  
Caltrans, District 10  
P.O. Box 2048  
Stockton, CA 95201  
209/948-7142 Fax 209/948-7906

Lou Salazar  
Caltrans, District 11  
P.O. Box 85406, MS 6-5  
2829 Juan Street  
San Diego, CA 92186-5406  
619/688-3140 Fax 619/688-4299

Aileen Kennedy  
Caltrans, District 12  
2501 Pullman St.  
Santa Ana, CA 92705  
949/724-2239 Fax 949/724-2592

## Business, Transportation, & Housing

Cathy Creswell  
Housing & Community Development  
Housing Policy Division  
1800 Third Street, Room 430  
Sacramento, CA 95814  
916/323-3176 Fax 916/327-2643

Sandy Hesnard  
Caltrans - Division of Aeronautics  
P.O. Box 942874 MS-40  
Sacramento, CA 94274-0001  
916/654-5314 Fax 916/653-9531

Lt. Dennis Brunette  
California Highway Patrol  
Office of Special Projects  
2555 1st Ave.  
Sacramento, CA 95818  
916/657-7222 Fax 916/452-3151

Ron Helgeson  
Caltrans - Planning  
P.O. Box 942874  
Sacramento, CA 94274-0001  
916/653-9966 Fax 916/653-0001

## State and Consumer Services

Robert Sleppy  
Dept. of General Services  
400 R Street, Suite 5000  
Sacramento, CA 95814  
916/324-0214 Fax 916/445-3556

## California Environmental Protection Agency

Air Resources Board  
2020 L Street (PO Box 2815)  
Sacramento, CA 95814 (95814-2815)  
916/327-5783 Fax 916/322-3646

Rob Rogen  
(airport projects)

Ann Geraghty  
(transportation projects)

Mike Tollstrup  
(industrial projects)

Jeanie Blakeslee  
Calif. Waste Management Board  
8800 Cal Center Drive  
Sacramento, CA 95826  
916/255-4708 Fax 916/255-4216

Diane Edwards  
State Water Resources Control Board  
Division of Clean Water Programs  
P.O. Box 944212  
Sacramento, CA 94244-2120  
916/227-4572 Fax 916/227-4349.

Phil Zeatner  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 944213  
Sacramento, CA 94244-2130  
916/657-0912 Fax 916/657-2388

SCH# 2000-99-015

Mike Falkenstein  
State Water Resources Control Board  
Division of Water Rights  
901 P Street, 3rd Floor  
Sacramento, CA 95814  
916/657-1377 Fax 916/657-1485

Dept. of Toxic Substances Control  
CEQA Tracking Center  
400 P Street, Fourth Floor  
P.O. Box 806  
Sacramento, CA 95812-0806  
916/324-3119 Fax 916/324-1788

## \* Regional Water Quality Control Board

North Coast Region (1)  
Cathy Goodwin  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403  
707/576-2220 Fax 707/523-0135

San Francisco Bay Region (2)  
Environmental Document Coordinator  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
510/622-2300 Fax 510/622-2460

Central Coast Region (3)  
81 Higuera Street, Suite 200  
San Luis Obispo, CA 93401-5427  
805/549-3147 Fax 805/543-0397

Los Angeles Region (4)  
Jonathan Bishop  
320 West 4th Street, Suite 200  
Los Angeles, CA 90013  
213/576-6600 Fax 213/576-6640

Central Valley Region (5)  
3443 Rautier Road, Suite A  
Sacramento, CA 95827-3003  
916/255-3000 Fax 916/255-3015

Fresno Branch Office  
3614 East Ashlan Avenue  
Fresno, CA 93726  
559/445-5116 Fax 559/445-5910

Redding Branch Office  
415 Knollcrest Drive  
Redding, CA 96002  
916/224-4845 Fax 916/224-4857

Lahontan Region (6)  
2501 Lake Tahoe Boulevard  
South Lake Tahoe, CA 96150  
530/542-5400 Fax 530/544-2271

Victorville Branch Office  
15428 Civic Drive, Suite 100  
Victorville, CA 92392-2359  
760/241-6583 Fax 760/241-7308

Colorado River Basin Region (7)  
73720 Fred Waring Drive, #100  
Palm Desert, CA 92260-2564  
760/782-7495 Fax 760/341-6820

Santa Ana Region (8)  
3737 Main Street, Suite 500  
Riverside, CA 92501-3339  
909/782-4130 Fax 909/781-6288

San Diego Region (9)  
9771 Clairemont Mesa Blvd., Suite B  
San Diego, CA 92124-1324  
619/467-2952 Fax 619/571-6972



IN REPLY REFER TO:

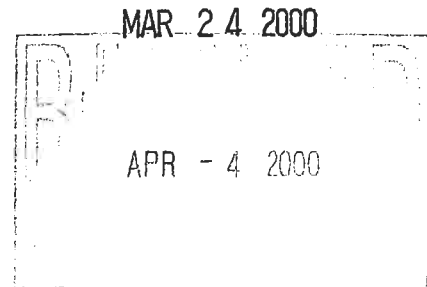
# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Sacramento Area Office  
2800 Cottage Way  
Sacramento, California 95825



CERTIFIED MAIL - # Z 384 608 884 - RETURN RECEIPT REQUESTED

State Clearinghouse  
Office of Planning & Research  
State of California  
1400 Tenth Street, Room 121  
Sacramento, California 95814



Gentlemen:

Enclosed for your appropriate distribution are ten copies of our Notice of Application seeking acceptance of title to real property "in trust for the Karuk Tribe of California, so named therein by the authorized representative of the Secretary of the Interior on behalf of the United States of America. Said Notice is issued pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10, 151.11.

Sincerely,

**Acting**

Regional Director

Enclosure(s)



IN REPLY REFER TO:

# United States Department of the Interior

## BUREAU OF INDIAN AFFAIRS

Sacramento Area Office  
2800 Cottage Way  
Sacramento, California 95825



MAR 24 2000

### NOTICE OF LAND ACQUISITION APPLICATION

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151, as amended, notice is given of the application filed by the Karuk Tribe of California Indians, to have real property accepted into Trust for the Karuk Tribe by the United States of America. The determination whether to acquire this property in trust will be made in the exercise of discretionary authority, which is vested in the Secretary of the Interior, or his authorized representative, U.S. Department of the Interior. To assist us in the exercise of that discretion, we invite your comments on the proposed acquisition. In order for the Secretary to assess the impact of the removal of the subject property from the tax rolls, and if applicable to your organization, we also request that you provide the following information.

- (1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;
- (2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;
- (3) Any governmental services that are currently provided to the property by your organization; and
- (4) If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning.

We are providing the following information regarding this application:

#### APPLICANT(S)

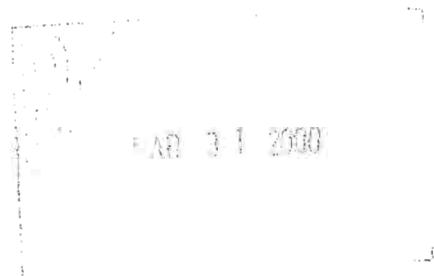
Karuk Tribe of California

#### LEGAL LAND DESCRIPTION

APN: 33-610-120 / 150 - UPPER KATIMIN

Parcel 1:

Indian Allotment Survey No. 321 A, being a portion of the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M. being more particularly desired as: That portion of Indian Allotment Survey No. 321 in Section 33, Township 12 North, Range 6 East, H. M.



That portion of Indian Allotment Survey No. 321 in Sec. 33, T.12N., R. 6 E., H.M.

Beginning at the Northeast corner of said allotment, thence in a Southwesterly direction along the North boundary to the Northwest corner of said allotment; thence in a Southern direction along the entire West boundary of said allotment to the Southwest corner thereof; thence in a Northeasterly direction along the South boundary of said allotment to a point 120.0 feet West of the Southeast corner thereof; thence in a Northwesterly direction at an angle of ninety degrees from the South boundary line for a distance of approximately 100 feet to a peppernut tree; thence in a Northeasterly direction to a madrone tree on the East boundary of said Allotment (said tree being approximately 140 feet from the Southeast boundary of said allotment); thence from said madrone tree along the East boundary of said allotment to the POINT OF BEGINNING.

SAVING AND EXCEPTING THEREFROM that portion of Indian Allotment Survey No. 321, approved December 10, 1935 in Section 33, Township 12 North, Range 6 East, H.M., lying Easterly of the line described as:

COMMENCING at corner No. 7, as shown on the plat of said Indian Allotment Survey No. 321, marked by a 2 inch pipe W/G.L.O. cap AP I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said survey marked by a 2 inch pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North  $00^{\circ}59'43''$  West, 210.69 feet (Record as shown on the plat of said Survey==North  $2^{\circ}$  West, 31.9 chains); thence along the Southerly line of said Survey, North  $70^{\circ}06'17''$  East, 216.53 feet to a point from which Engineer's Station "A" 3+54.63 P.O.T., as established from the Department of Public Works 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South  $85^{\circ}27'19''$  East 66.00 feet, being the TRUE POINT OF BEGINNING of this line; thence North  $04^{\circ}32'41''$  East 235 feet, more or less, to the Point of Termination of this line on the Northeasterly line of said Indian Allotment Survey No. 321;

EXCEPTING THEREFROM that portion thereof conveyed to Lafayette Donahue by patent from the United States of America, recorded September 25, 1964 in Book 508 at page 345, Official Records of Siskiyou County.

PARCEL II:

All that portion of Indian Allotment Survey No. 321 B in the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M., lying Westerly of and adjacent to the following described line and Southerly prolongation thereof.

COMMENCING at corner No. 7 as shown on the plat of Indian Allotment Survey No. 321 approved December 10, 1935, marked by a 2" pipe W/G.L.O. Cap AP1 I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said Survey marked by a 2" pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North 00° 59' 43" West, 210.69 feet (Record as shown on the plat of said Survey == North 2° West, 31.9 chains); thence, along the Southerly line of said Survey, North 70° 06' 17" East, 179.18 feet to a point from which Engineer's Station "A" 3+39.18 P.O.T., as established from the Department of Public Works 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South 85° 27' 19" East 100.00 feet, said point begin the TRUE POINT OF BEGINNING, thence North 04° 32' 41" East, 200 feet.

The bearings used in the above description are on the California coordinate system, Zone 1, and the distances are surface. Containing 0.9 acres (33-610-120), .1 acre (33-610-150), more or less.

APN: 033-610-070 / 033-610-100 - ISHI-PISHI (BUEHLER)

All that real property situate in the County of Siskiyou, State of California, described as follows:

Lots 316A and 316C in Section 33, Township 12 North, Range 6 East, Humboldt Meridian, Siskiyou County, California. Containing 2.6 acres (033-610-070); 1.1 acre (033-610-100) more or less.

APN: 26-550-150 - ELLIOTT CREEK

Parcel 1A, according to that certain Parcel Map for James and Kathy Kutzer, recorded June 12, 1986, in Book 10 of Parcel Maps, at page 57, Siskiyou County Records, located in Section 20, Township 14 North, Range 6 East, H.M., Siskiyou County, California. Containing 16 acres, more or less.

APN: 529-132-21- Y - PANAMNIK (GERA)

That real property situated in the County of Humboldt, State of California, described as follows:

Commencing at a point on the South line of State Highway 96, from which US Mineral Monument No. 22 bears South 69° 11" West, a distance of 1802.8 feet, also from which the quarter corner between Section 36 in Township 11 North, Range 5 East, and Section 31 in Township 11 North, Range 6 East, Humboldt Base & Meridian, bears North 13° 41" West, a distance of 1153.1 feet, said point also being the Northwest corner of Parcel Two described in Deed to Orleans Veneer and Lumber Company, a Corporation, recorded July 21, 1955, in Book 348, Page 646, Humboldt County Official Records;

Thence South 7° 59" East along the West line of said Orleans Veneer and Lumber Company parcel and its southerly prolongation a distance of 400.9 feet to the southerly line of the Haines Placer Mining Claim, as described in Patent recorded in Book 23 of Patents, page 342, Humboldt County Records;

Thence along the southerly boundary of said Mining Claim North 69° 15" East, 67.9 feet and North 70° East, a distance of 330.1 feet to the TRUE POINT OF BEGINNING of the Parcel to be described herein;

Thence from said true point of beginning North 6° 02" East, 111 feet to the centerline of exiting road right of way,

Thence easterly along the centerline of said road, 150 feet,

Thence South 6° 02" West, 90 feet, more or less, to the southerly line of said Haines Placer Mining Claim;

Thence South 70° West along said last mentioned line, 150 feet, more or less, to the true point of beginning. Containing .25 acres, more or less.

 PROPOSED LAND USE:

The Karuk Tribe intends to restore these ceremonial, burial and sacred sites back to the original protected state. The Tribe intends on debris-clearing and regular maintenance activities; there are no plans to alter the present use. This application is consistent with the proposed Land Consolidation Plan, which includes acquisition of additional lands held in trust within the Karuk Ancestral Territory to restore ceremonial and village sites.

CURRENT TAXES AND ZONING:

Current taxes have been paid for 1998-1999. There are no records of any previous permits of development with the subject sites.

EXISTING EASEMENTS/ENCUMBRANCES:

Upper Katimin property: Easement for the Siskiyou Telephone Company, for poles, conduits and incidental purposes.

Elliott Creek property: Easement for Public Access to an existing cemetery 20 foot wide; building set back line, 30 feet from lot lines; no subsurface disturbance within 115' x 165' area around cemetery as noted on town map book 7, pages 51 and 52 and on Lot 1 will be monitored.

SUPPLEMENTAL DATA:

The parcels of this request are targeted sites for cultural preservation.

As indicated above, the purpose for seeking your comments regarding the proposed trust land acquisition is to obtain sufficient data that would enable an analysis of the potential impact on local/state government which may result from the removal of the subject property from the tax roll and local jurisdiction.

This notice does not constitute, or replace, a notice that might be issued for the purpose of compliance with the National Environmental Policy Act of 1969.

Your written comments should be addressed to the Bureau of Indian Affairs at the above address. Any comments received within thirty days of your receipt of this notice will be considered and made a part of our record. You may be granted an extension of time to furnish comments, provided you submit a written justification requesting such extension within thirty days of receipt of this letter.

An extension of ten to thirty days may be granted. Copies of all comments will additionally be provided to the applicant(s). You will be notified of the decision to approve or deny the application.

A copy of the application, excluding any documentation exempted under the Freedom of Information Act, is available for review at the above address. A request to make an appointment to review the application, or questions regarding the application, may be directed to Elaina M. Doyle, Realty Specialist, at the above address or (916) 978-6098.

Sincerely,



**Acting** Regional Director

Enclosure(s)  
Legal Descriptions  
Site Map(s)



cc: BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED TO:

Board of Supervisors - Z 384 608 877  
County of Siskiyou  
P. O. Box 338  
Yreka, California 96097

Planning Director, Planning Department - Z 384 608 870  
County of Siskiyou  
P. O. Box 1085  
Yreka, California 96097

Siskiyou County Treasurer - Z 384 608 871  
and Tax Collector  
P. O. Box 600  
Yreka, California 96097

State Clearinghouse - Z 384 608 872  
Office of Planning and Research  
State of California  
1400 Tenth Street, Rm. 121  
Sacramento, California 95814

Mr. Eric M. George, Deputy Legal Affairs Secretary - Z 384 608 873  
Office of the Governor  
State Capitol Building  
Sacramento, California 95814

Ms. Sara Drake, Deputy Attorney General - Z 384 608 874  
State of California  
Department of Justice  
P. O. Box 944255  
Sacramento, California 94244-2550

Mr. Alvis Johnson, Chairman - Z 384 608 875  
Karuk Tribe of California  
P. O. Box 1016  
Happy Camp, California 96039

REGULAR MAIL

Superintendent, Northern California Agency  
1900 Churn Creek, Suite 300  
Redding, California 96002

Thomas D. Conlon, Director – Z 384 608 905  
Humboldt County Planning Division  
3015 H. Street  
Eureka, California 95501-4484

Treasurer and Tax Collector - Z 384 608 906  
County of Humboldt  
825 5th Street  
Eureka, California 95501

Board of Supervisors - Z 384 608 907  
County of Humboldt  
825 5th Street  
Eureka, California 95501

## EXHIBIT "A"

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL I:

Indian Allotment Survey No. 321 A, being a portion of the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M. being more particularly described as:

That portion of Indian Allotment Survey No. 321 in Section 33, Township 12 North, Range 6 East, H.M.

BEGINNING at the Northeast corner of said allotment, thence in a Southwesterly direction along the North boundary to the Northwest corner of said allotment; thence in a Southern direction along the entire West boundary of said allotment to the Southwest corner thereof; thence in a Northeasterly direction along the South boundary of said allotment to a point 120 feet West of the Southeast corner thereof; thence in a Northwesterly direction at an angle on ninety degrees from the South boundary line for a distance of approximately 100 feet to a peppernut tree; thence in a Northeasterly direction to a madrone tree on the East boundary of said Allotment (said tree being approximately 140 feet from the Southeast boundary of said allotment); thence from said madrone tree along the East boundary of said allotment to the POINT OF BEGINNING.

SAVING AND EXCEPTING THEREFROM that portion of Indian Allotment Survey No. 321, approved December 10, 1935 in Section 33, Township 12 North, Range 6 East, H.M., lying Easterly of the line described as:

COMMENCING at corner No. 7, as shown on the plat of said Indian Allotment Survey No. 321, marked by a 2 inch pipe W/G.L.O. Cap AP I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said survey marked by a 2 inch pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North  $00^{\circ} 59' 43''$  West, 210.69 feet (Record as shown on the plat of said survey = North  $2^{\circ}$  West, 31.9 chains); thence along the Southerly line of said Survey, North  $70^{\circ} 06' 17''$  East, 216.53 feet to a point from which Engineer's Station "A" 3+54.63 P.O.T., as established from the Department of Public Works' 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South  $85^{\circ} 27' 19''$  East, 66.00 feet, being the TRUE POINT OF BEGINNING of this line; thence North  $04^{\circ} 32' 41''$  East 235 feet, more or less, to the Point of Termination of this line on the Northeasterly line of said Indian Allotment Survey No. 321;

EXCEPTING THEREFROM that portion thereof conveyed to Lafayette Donahue by patent from the United States of America, recorded September 25, 1964 in Book 508 at page 345, Official Records of Siskiyou County.

PARCEL II:

All that portion of Indian Allotment Survey No. 321 B in the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M., lying Westerly of and adjacent to the following described line and Southerly prolongation thereof.

(Continued)

60896-DN

COMMENCING at corner No. 7 as shown on the plat of Indian Allotment Survey No. 321 approved December 10, 1935, marked by a 2" pipe W/G.L.O. Cap AP1 I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said Survey marked by a 2" pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North  $00^{\circ} 59' 43''$  West, 210.69 feet (Record as shown on the plat of said Survey = North  $2^{\circ}$  West 3.19 chains); thence, along the Southerly line of said Survey, North  $70^{\circ} 06' 17''$  East, 179.18 feet to a point from which Engineer's Station "A" 3+39.18 P.O.T., as established from the Department of Public Works 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South  $85^{\circ} 27' 19''$  East 100.00 feet, said point begin the TRUE POINT OF BEGINNING; thence North  $04^{\circ} 32' 41''$  East, 200 feet.

The bearings used in the above description are on the California Coordinate System, Zone 1, and the distances are surface.

LEGAL DESCRIPTION

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA,  
DESCRIBED AS FOLLOWS:

Lots 316A and 316C in Section 33, Township 12 North, Range 6 East, Humboldt  
Meridian, Siskiyou County, California.

c

EXHIBIT "A"

PARCEL DESCRIPTION:

Parcel 1A, according to that certain Parcel Map for James and Kathy Kutzer, recorded June 12, 1986 in Book 10 of Parcel Maps, at page 57, Siskiyou County Records, located in Section 20, Township 14 North, Range 6 East, H.M., Siskiyou County, California.

EXHIBIT "A"

That real property situated in the County of Humboldt, State of California, described as follows:

Commencing at a point on the South line of State Highway 96, from which US Mineral Monument No. 22 bears South 69 degrees 11 minutes West, a distance of 1802.8 feet, also from which the Quarter corner between Section 36 in Township 11 North Range 5 East, and Section 31 in Township 11 North, Range 6 East, Humboldt Base & Meridian, bears North 13 degrees 41 minutes West, a distance of 1153.1 feet, said point also being the Northwest corner of Parcel Two described in Deed to Orleans Veneer and Lumber Company, a corporation, recorded July 21, 1955, in Book 348, Page 646, Humboldt County Official Records;

thence South 7 degrees 59 minutes East along the West line of said Orleans Veneer and Lumber Company parcel and its southerly prolongation a distance of 400.9 feet to the southerly line of the Haines Placer Mining Claim, as described in Patent recorded in Book 23 of Patents, page 342, Humboldt County Records;

thence along the southerly boundary of said Mining Claim North 69 degrees 15 minutes East, 67.9 feet and North 70 degrees East, a distance of 330.1 feet to the TRUE POINT OF BEGINNING of the Parcel to be described herein;

thence from said true point of beginning North 6 degrees 02 minutes East, 111 feet to the centerline of existing road right of way;

thence easterly along the centerline of said road, 150 feet;

thence South 6 degrees 02 minutes west, 90 feet, more or less, to the southerly line of said Haines Placer Mining Claim;

thence south 70 degrees west along said last mentioned line, 150 feet, more or less, to the true point of beginning.

APN 529-132-21

T 12 N R 6 E H.M.  
S 1/2 of Sec. 33

Tax Area Code  
85-00

33-61

THIS PLAT IS FURNISHED FOR INFORMATION. IT IS  
COMPILED FROM DATA WHICH WE BELIEVE TO BE  
ACCURATE, BUT NO LIABILITY IS ASSUMED BY THE  
COMPANIES AS TO THE CORRECTNESS OF SUCH DATA.

SISKIYOU COUNTY TITLE CO.



PAGE  
12

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PAGE  
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PAGE  
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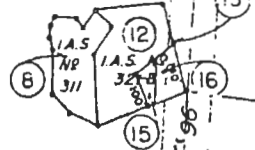
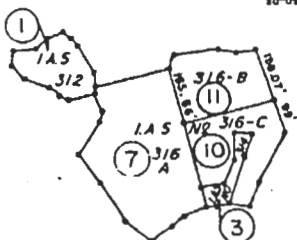
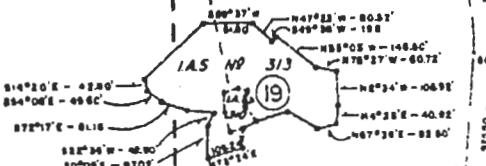
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(NOTE: IRREGULAR SECTION - ROAD MAY BE IN SE 1/4)

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Assessor's Map  
County of Siskiyou, California



RAD, WILLIS JR. ----- Tract 37 No.17.  
 ANUE, JENNIE ----- I.A.S.#316-B No.11.  
 ANUE, JENNIE ----- I.A.S.#316-A & 316-C  
 (Lyle N. & Florence G. Buehler) Nos. 7 & 10.  
 SEN, FRITZ ----- I.A.S.#321-B  
 (Lyle H. Bruce Throgmorton et al) No.12.  
 RY, PETE ----- I.A.S.#313  
 (Lyle H. & Vivki A. Throgmorton)  
 (Lyle H. & Vivki A. Throgmorton) No.19.

PEPPER, DOLLY -----I.A.S.#314  
 (Andrew SR. & Macaria S. Rzd) No.3.

**T 12 N R 6 E HM**  
**S 1/4 of Sec 33**

Tax Area Code  
 85-00  
 1992

33-61

PEPPER, JOHNNY ----- I.A.S.#311  
 (Bessie Albars Attebury) No.8.  
 TOM, BEN ----- I.A.S.#312  
 ( Jack & Walter & Cecilia Heidenrich) No.1.  
 (Lyle H. & Florence G. Buehler) No.1.

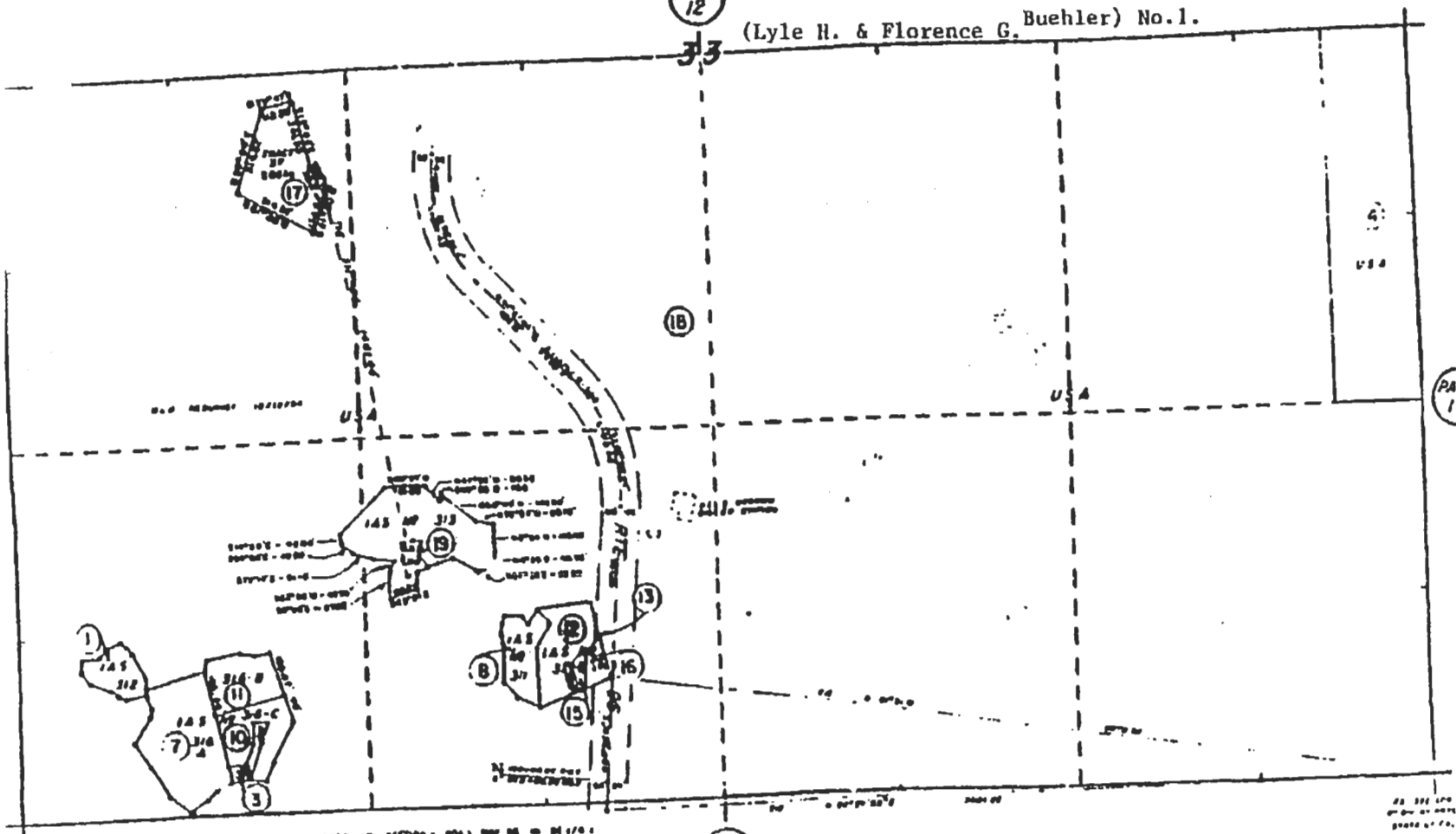
PAGE 12

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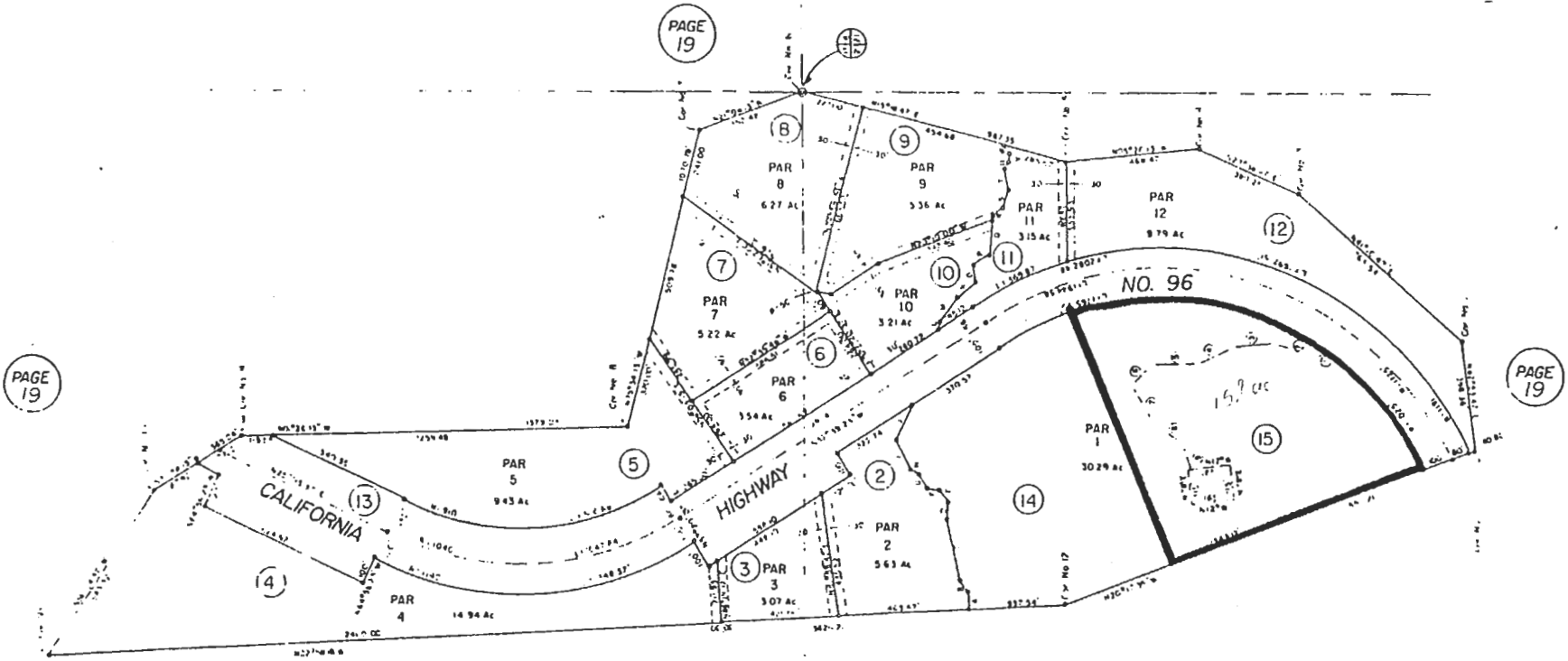
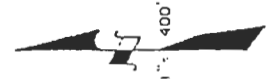


Assessor's Map  
 County of Siskiyou, California

T14N R6E H.M.  
 ELLIOTT CREEK RETREAT  
 TRACT No. 1135

Tax Area Code  
 85-01

26 - 55



PAGE 19

PAGE 19

PAGE 19

PAGE 19

"This map may or may not be a survey of the land depicted hereon. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. First American expressly disclaims any liability for alleged loss or damage which may result from reliance upon this map."

LINE	BEARING	DISTANCE
1	N 10° 15' 00" E	100.00
2	N 89° 45' 00" W	100.00
3	S 89° 45' 00" E	100.00
4	S 10° 15' 00" W	100.00
5	N 10° 15' 00" E	100.00
6	N 89° 45' 00" W	100.00
7	N 89° 45' 00" W	100.00
8	N 10° 15' 00" E	100.00
9	N 10° 15' 00" E	100.00
10	N 89° 45' 00" W	100.00
11	N 89° 45' 00" W	100.00
12	N 10° 15' 00" E	100.00
13	N 10° 15' 00" E	100.00
14	N 89° 45' 00" W	100.00
15	N 89° 45' 00" W	100.00

LINE	BEARING	DISTANCE
1	N 10° 15' 00" E	100.00
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6	N 89° 45' 00" W	100.00
7	N 89° 45' 00" W	100.00
8	N 10° 15' 00" E	100.00
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13	N 10° 15' 00" E	100.00
14	N 89° 45' 00" W	100.00
15	N 89° 45' 00" W	100.00

# PTN TOWN OF ORLEANS

( IN SEC 36, 11N 5E & SEC 31, 11N 6E & BEING ALL OF LOT 39 & PTN OF LOT 37 )

529-13

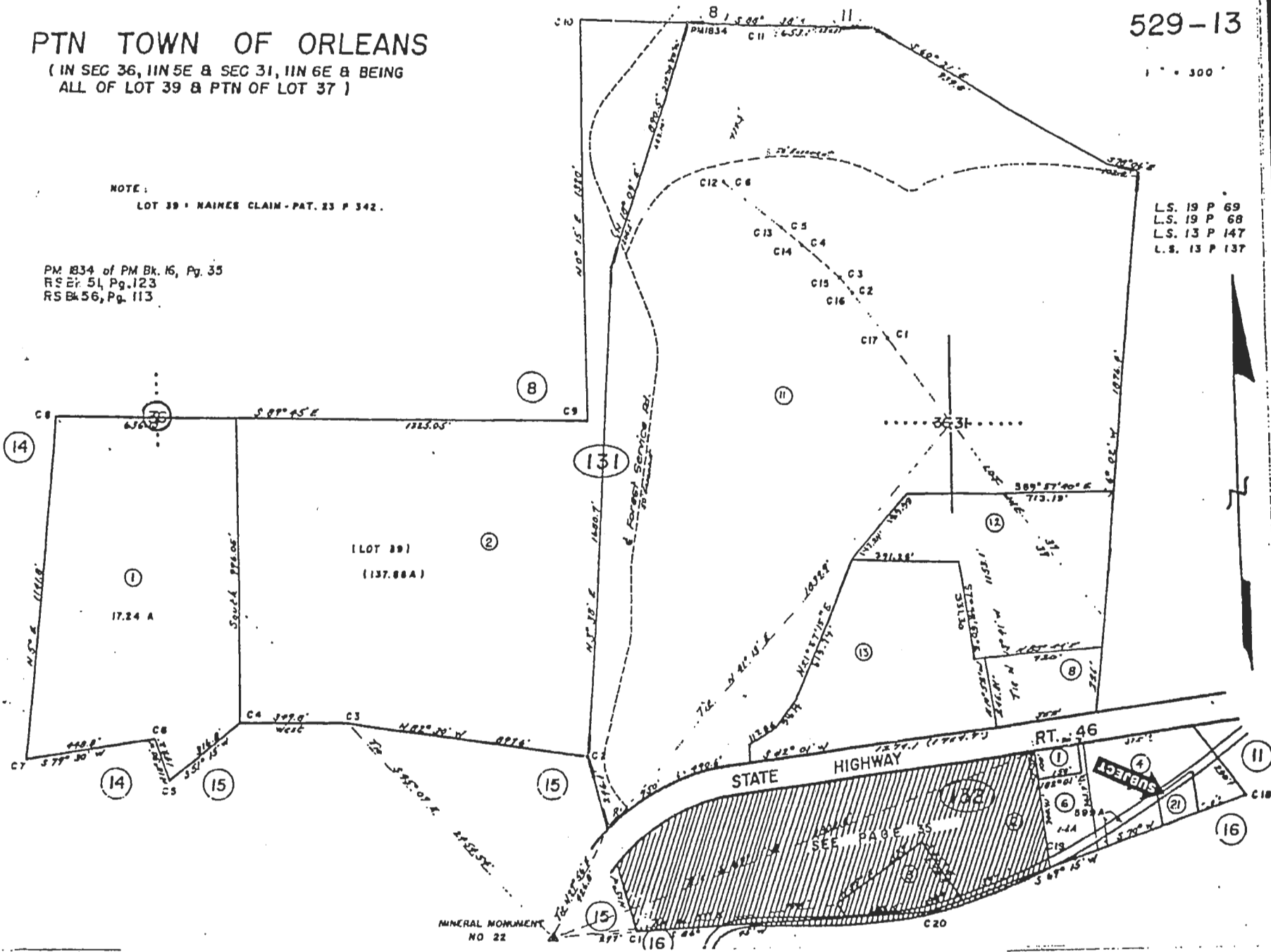
1" = 300'

**NOTE:**

LOT 39 - MAINE CLAIM - PAT. 23 P 342.

PM 1834 of PM Bk. 16, Pg. 35  
 RS 21, Pg. 123  
 RS Bk 56, Pg. 113

L.S. 19 P 69  
 L.S. 19 P 68  
 L.S. 13 P 147  
 L.S. 13 P 137



Gera Parcel

Title 43, Code of Federal Regulations, Administrative  
Appeals to the Interior Board  
of Indian Appeals

§4.306

tate in one-half of the interests. The decision shall 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 administrative law judge shall 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.

[38 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 26, 1990]

§4.306 Time for payment.

A tribe shall pay the full fair market value of the interests purchased, as set forth in the appraisal 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 shall issue a certificate to the administrative law judge that this has been done and file therewith such documents in support thereof as the administrative law judge may require. The administrative law judge shall 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 shall 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.

43 CFR Subtitle A (10-1-94 Edition)

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

SOURCE: Sections 4.310 through 4.318 appear at 54 FR 6485, Feb. 10, 1989, 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) shall be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings shall 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 shall 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 representative shall 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

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Office of the Secretary of the Interior

§4.314

nonbusiness days shall be 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 shall 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 shall have 30 days from receipt of appellant's brief to file answer briefs, copies of which shall 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 shall 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 shall 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 Bureau of Indian Affairs shall be considered an interested party in any proceeding before the Board. The Board may request that the Bureau 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 shall 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 an official of the Bureau of Indian Affairs or an administrative law judge. Distribution of decisions shall 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 shall 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 shall 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 shall 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 shall be served in the same manner as appeal briefs.

§4.314 Exhaustion of administrative remedies.

(a) No decision of an administrative law judge or an official of the Bureau of Indian Affairs, which at the time of its rendition is subject to appeal to the Board, shall 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.

#### §4.315

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

[54 FR 6485, Feb. 10, 1989; 54 FR 7504, Feb. 21, 1989]

#### §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 shall 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 shall not stay the effect of any decision or order and shall 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 court to the Board for further proceedings, the Board will either remand the matter to an administrative law judge or to the Bureau of Indian Affairs, or to the extent the court's directive and time limitations will permit, the parties shall 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 shall 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

#### 43 CFR Subtitle A (10-1-94 Edition)

Hearings and Appeals shall determine the matter of disqualification.

#### §4.318 Scope of review.

An appeal shall be limited to those issues which were before the administrative law judge upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the official of the Bureau of Indian Affairs on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board shall 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: Sections 4.320 through 4.323 appear at 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

#### §4.320 Who may appeal.

A party in interest shall have a right of appeal to the Board of Indian Appeals from an order of an administrative law judge on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(a) *Notice of Appeal.* Within 60 days from the date of the decision, an appellant shall 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, 4015 Wilson Boulevard, Arlington, Virginia 22203. A statement of the errors of fact and law upon which the appeal is based shall be included in either the notice of appeal or in any brief filed. The notice of appeal shall include the names and addresses of parties served. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction.

(b) *Service of copies of notice of appeal.* The appellant shall personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy shall be served upon the administrative law judge whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board shall

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include a certificate made as required.

(c) *Action record inspection.* The law judge, upon notice of appeal, shall forward to the Office design part. The duplicate re and 4.241(d), part, to the Office design part. The duplicate re and Rec after be ava at the Land or at the of In those cas the hearing administrative transcript p warded to from receipt appeal.

#### §4.321 Notice on appeal.

The original forwarded. Records Office notified mail. as constituted Board with notice of do of this part.

#### §4.322 Decision.

The appeal Board upon tive record Records Office as shown by be notified c eting notice within which shall cite t governing th

#### §4.323 Disposition.

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**Office of the Secretary of the Interior**

**§4.331**

include a certification that service was  
made as required by this section.

(c) *Action by administrative law judge;  
record inspection.* The administrative  
law judge, upon receiving a copy of the  
notice of appeal, shall notify the Su-  
perintendent 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 shall be con-  
formed to the original by the Land Ti-  
tles and Records Office and shall there-  
after 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 ad-  
ministrative law judge shall have a  
transcript prepared which shall be for-  
warded to the Board within 30 days  
from receipt of a copy of the notice of  
appeal.

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

The original record on appeal shall be  
forwarded by the Land Titles and  
Records Office to the Board by cer-  
tified mail. Any objection to the record  
as constituted shall 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 shall be docketed by the  
Board upon receipt of the administra-  
tive record from the Land Titles and  
Records Office. All interested parties  
as shown by the record on appeal shall  
be notified of the docketing. The dock-  
eting notice shall specify the time  
within which briefs may be filed and  
shall 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 be-  
cause of the appeal and the Board's de-  
cision, shall 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  
shall be conformed to the original and  
forwarded to the Superintendent con-  
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**APPEALS TO THE BOARD OF INDIAN AP-  
PEALS FROM ADMINISTRATIVE AC-  
TIONS OF OFFICIALS OF THE BUREAU  
OF INDIAN AFFAIRS: ADMINISTRATIVE  
REVIEW IN OTHER INDIAN MATTERS  
NOT RELATING TO PROBATE PRO-  
CEEDINGS**

SOURCE: Sections 4.330 through 4.340 appear  
at 64 FR 6487, Feb. 10, 1999, 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 ad-  
ministrative actions or decisions of of-  
ficials of the Bureau of Indian Affairs  
issued under regulations in 25 CFR  
chapter 1, and (2) administrative re-  
view 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 Af-  
fairs.

(b) Except as otherwise permitted by  
the Secretary or the Assistant Sec-  
retary—Indian Affairs by special dele-  
gation 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



§4.332

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, 4015 Wilson Boulevard, 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

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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.

§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.

(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

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taken; all original documents, or applications, or proceedings which were initiated by interested parties; and copies of all proceedings upon which all proceedings are based.

(b) The administrative records include a Table of Contents, and a minimum, including:

(1) The decision appealed;

(2) The notice of appeal and the response thereto; and

(3) Certification of the Board that all information contained in the record is true and correct.

(c) If the decision is appealed to the Assistant Secretary—Indian Affairs for review, the administrative record is to be filed with the Board, the administrative record shall be forwarded to the Assistant Secretary—Indian Affairs for the Board.

(d) The administrative record shall be filed with the Board.

§4.336 Docketing.

An appeal shall be docketed by the Board upon receipt of the notice of appeal. If the Board has been petitioned by the Assistant Secretary—Indian Affairs to assume jurisdiction, a notice of appeal shall be sent to all interested parties.

The record on appeal shall be filed with the Board within 20 days of receipt of the notice of appeal.

The docketing number shall be cited in the procedural papers filed with the Board.

The docketing number shall be cited in the Table of Contents of the administrative record.

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The docketing number shall be cited in the Table of Contents of the administrative record.

§4.337 Action by the Board.

(a) The Board may, in its discretion, or where there is a genuine issue of fact, require the appellant to appear before the Board.

The Board may require the appellant to appear before the Board.

The Board may require the appellant to appear before the Board.



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tions, or applications by which the pro-  
ceeding was initiated; all supplemental  
documents which set forth claims of in-  
terested 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 con-  
tains all information and documents  
utilized by the deciding official in ren-  
dering the decision appealed.

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

§4.336 Docketing.

An appeal shall be assigned a docket  
number by the Board 20 days after re-  
ceipt of the notice of appeal unless the  
Board has been properly notified that  
the Assistant Secretary—Indian Affairs  
has assumed jurisdiction over the ap-  
peal. A notice of docketing shall be  
sent to all interested parties as shown  
by the record on appeal upon receipt of  
the administrative record. Any objec-  
tion 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 govern-  
ing 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 de-  
cision, 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 hear-  
ings shall be conducted by an adminis-  
trative law judge of the Office of Hear-  
ings and Appeals. The Board may, in  
its discretion, grant oral argument be-  
fore 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 au-  
thority committed to the Bureau, and  
the Board has not otherwise been per-  
mitted to adjudicate the issue(s) pursu-  
ant 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 As-  
sistant Secretary—Indian Affairs for  
further consideration.

§4.338 Submission by administrative  
law judge of proposed findings, con-  
clusions and recommended deci-  
sion.

(a) When an evidentiary hearing pur-  
suant to §4.337(a) of this part is con-  
cluded, 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 ad-  
ministrative law judge, shall be for-  
warded to the Board.

(b) The administrative law judge  
shall advise the parties at the conclu-  
sion 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 re-  
garding recommended decision by  
administrative law judge.

Within 30 days after receipt of the  
recommended decision of the adminis-  
trative 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 ap-  
peal proceedings, including the Board's  
decision, shall be forwarded to the offi-  
cial of the Bureau of Indian Affairs  
whose decision was appealed for proper  
disposition in accordance with rules

#### §4.350

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, administrative judges shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Land 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 officer in charge of the White Earth Reservation Land Settlement Branch of the Minneapolis Area Office, Bureau of Indian Affairs, at Cass Lake, Minnesota.

(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 of the

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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]

#### §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:

(1) A copy of the death certificate if one exists. If there is no death certificate, then another form of official written evidence of the death such as a burial or transportation of remains permit, coroner's report, or church registry of death. Secondary forms of evidence of death such as an affidavit from someone with personal knowledge concerning the fact of death or an obituary or death notice from a newspaper may be used only in the absence of any official proof or evidence of death.

(2) Data for heirship finding and family history, certified by the Project Director. Such data shall contain:

(i) The facts and alleged facts of the decedent's marriages, separations and divorces, with copies of necessary supporting documents;

(ii) The names and last known addresses of probable heirs at law and other known parties in interest;

(iii) Information on whether the relationships of the probable heirs at law to the decedent arose by marriage, blood, or adoption.

(3) Known heirship determinations, including those recognized by the Act determining the heirs of relatives of

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the decedent, and as determined by courts of other states, by tribunals authorized in other countries.

(4) A report of the decedent, including the date of death, and an outline of such compensation real property original of the compensation ceased, citing all heirs at law, and the amount contributed to each of

(5) A certification of the Project Director or his designee provided for the same were furnished after diligent search

[56 FR 61383, Dec. 3, 1991]

#### §4.352 Determination by administrative judge and

(a) Upon review by the Project Director, the administrative judge will determine if there are any facts that need to be

(b) If there are any facts requiring determination, the administrative judge will enter a determination of heirship in accordance with the laws in accordance with the Act. Such preliminary determination may be entered without a hearing when possible and when furnished and/or verified by the Project Director, names, birth dates, and addresses of the decedent, and shall include the fact that the decedent has no other heirs.

(1) Upon issuing a determination, the administrative judge shall issue a notice of determination and shall mail a copy of the determination, together with a copy of the determination, to the interested parties, allowing forty days for the filing of a writ of certiorari should no administrative judge's determination be made in the manner of such manner of such manner.

(2) The Project Director, within seven