



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way, Room. W-2820
Sacramento, California 95825

JUN 25 2018

Notice of (Non-Gaming) Land Acquisition Application

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10 and Part 151.11, notice is given of the application filed by the Karuk Tribe to have real property accepted "into trust" for said applicant 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 government 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:

Karuk Tribe

Legal Land Description/Site Location:

The land referred to herein is situated in the State of California, County of Humboldt, and is described as follows:

Parcel 1

All of that lot designated by the Surveyor General as Lot No. 37 containing 119.35 acres, known as the Graham and Company Placer Mining claim, more particularly described in Patent issued by the United States of America, dated February 7, 1887, recorded in the United States General Land Office in Volume 136 of Patents at Pages 245 to 252, inclusive, and likewise recorded in the Office of the County Recorder of Humboldt County in Book 23 of Patents at Page 337, reference to which Patent is hereby made for a more particular description of said premises.

EXCEPTING therefrom any veins or lodes of quartz, or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits within the land above described which may have been discovered or known to exist on or prior to September 29, 1883.

ALSO EXCEPTING therefrom the land described in the Deed to the State of California recorded August 8, 1934 in Book 214 of Deeds, Page 471, Humboldt County Records.

ALSO EXCEPTING therefrom lands conveyed to the State of California in Deed recorded October 27, 1966 in Book 901 of Official Records, Page 564, under Recorder's Serial No. 17480, Humboldt County Records.

ALSO EXCEPTING therefrom lands conveyed to Majestic Forest Products, Inc., a California Corporation, in Deed recorded December 23, 1971 in Book 1117 of Official Records, Page 271, under Recorder's Serial No. 20748, Humboldt County Records.

APN: 529-151-003

Parcel 2

The Orleans Placer Mine, surveyed by the Surveyor General, in Orleans Bar Mining District and situated in portions of Section 1, Township 10 North, Range 5 East, Section 6, Township 10 North, Range 6 East; Section 31, Township 11 North Range 6 East, and Section 36, Township 11 North, Range 5 East, Humboldt Meridian, and being the same embraced in the United States Patent issued to Thomas Baird, et al, dated March 22, 1880 in Book 5 of Patents, Page 260, Humboldt County Records.

EXCEPTING therefrom any veins or lodes of quartz, or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposits within the land above described, which may have been discovered or known to exist on or prior to the 22nd day of March 1880.

ALSO EXCEPTING therefrom the land described in the Deed to the State of California, recorded August 8, 1934 in Book 214 of Deeds, Page 471, Humboldt County Records.

APN: 529-161-001

Project Description/Proposed Land Use:

The subject property consists of two parcels of land totaling 159.26 acres, more or less, commonly referred to as Assessor's Parcel Numbers 529-151-003 (Upper Tishaniik) and 529-161-001 (Orleans Bar). The subject parcels are located in the unincorporated community of Orleans, California and is not contiguous to existing land held in trust for the Karuk Tribe.

There is one single-family residential unit on the Upper Tishaniik Parcel, the Orleans Bar parcel is undeveloped. The Tribe has no plans to change the current land use of the subject property.

Current Use/Taxes and Zoning:

Assessed property taxes for 2017-2018:

529-151-003 \$5,680.44

529-161-001

\$5,612.42

Existing Easements/Encumbrances:

See enclosure "Schedule B"

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 address at the top of this notice. 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 an 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. You will be notified of the decision to approve or deny the application.

If any party receiving this notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy of this notice to said party or timely provide our office with the name and address of said party.

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 Alexis St. John, Realty Specialist, at (916) 978-6059.

Sincerely,



Regional Director

Enclosures

cc: Distribution List

DISTRIBUTION LIST

cc: BY CERTIFIED MAIL RETURN RECEIPT REQUESTED to:

California State Clearinghouse (ten copies) – 7018 0360 0000 8590 7543
Office of Planning and Research
P.O. Box 3044
Sacramento, CA 92220

Sara J. Drake, Deputy Attorney General – 7018 0360 0000 8590 7550
State of California
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Joe Dhillon, Sr. Advisor for Tribal Negotiations – 7018 0360 0000 8590 7574
Deputy Legal Affairs Secretary
Office of the Governor
California State Capitol Building, Ste. 1173
Sacramento, CA 95814

Office of the Honorable Dianne Feinstein – 7018 0360 0000 8590 7567
331 Hart Senate Office Building
Washington, DC 20510

Humboldt County Assessor – 7018 0360 0000 8590 7536
825 5th Street, Room #300
Eureka, CA 95501

Mr. Ryan Sundberg, 5th District Supervisor – 7018 0360 0000 8590 7581
Humboldt County Board of Supervisors
825 5th St.
Eureka, CA 95501

Humboldt County Sheriff – 7018 0360 0000 8590 7598
826 4th Street
Eureka, CA 95501

Planning Director, Planning Dept. – 7018 0360 0000 8590 7604
County of Humboldt
3015 H Street
Eureka, CA 95501

Director, Humboldt County Public Works – 7018 0360 0000 8590 7611
1106 2nd Street
Eureka, CA 95501

Humboldt County Tax Collector – 7018 0360 0000 8590 7628
825 5th Street
Eureka, CA 95501


Chairperson – 7018 0360 0000 8590 7659
Big Lagoon Rancheria, California
P.O. Box 3060
Trinidad, CA 95570

Chairperson – 7018 0360 0000 8590 7642
Hoopa Valley Tribe, California
P.O. Box 1348
Hoopa, CA 95546

Chairperson – 7018 0360 0000 8590 7666
Bear River Band of Rohnerville Rancheria
27 Bear River Drive
Loleta, CA 95551

Chairperson – 7018 0360 0000 8590 7673
Blue Lake Rancheria, California
P.O. Box 428
Blue Lake, CA 95525

cc: Regular Mail:
Superintendent, Northern California Agency
364 Knollcrest Drive, Ste. 105
Redding, CA 96002

 First American Title™	Commitment for Title Insurance
	<small>BY</small> First American Title Insurance Company
Schedule B - 2	TRIBE TO TRUST

File No.: 156176


SECTION ONE

EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

PART I:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

 First American Title™	Commitment for Title Insurance
	<small>BY</small> First American Title Insurance Company
Schedule B - 2	TRIBE TO TRUST

File No.: 156176

**SCHEDULE B - SECTION TWO
EXCEPTIONS FROM COVERAGE
PART II:**

- 7. Any claim that the United States lacks proper authority to acquire or hold title to the land, or arising from or related to an alleged defect in the process of approving or authorizing the acquisition of title by the United States of America in Trust for Karuk Tribe, a federally recognized tribe
- 8. Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances or regulations of an Indian tribe or nation.
- 9. Public records as defined in this Policy do not include records of an Indian tribe, band, pueblo, nation, community, village, Rancheria or similar entity or association of Indians or any other repository of Indian Land Records, including, but not limited to the Bureau of Indian Affairs Land Titles and Records Office.
- 9a. Any claim arising from the failure of a deed to the United States of America in Trust for the Karuk Tribe, a federally recognized tribe to record in the Bureau of Indian Affairs Land Title and Records Office.
- 10. Tribal records for any tax, law or regulation are not "public records" within the meaning of this policy, and this policy provides no coverage respecting any loss occasioned by any such tribal tax law or regulation.
- 11a. Property taxes, including any assessments collected with taxes, to be levied for the fiscal year 2017-2018, which are a lien not yet payable.
Code Area: 157-003 Parcel No.: 529-151-003-000
- 11b. Property taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2016-2017:
 - 1st Installment: \$2,773.87, paid
 - 2nd Installment: \$2,773.87, payable but not yet due
 - Delinquent after: April 10, 2017
 - Land: \$338,420.00
 - Structural Improvements: \$195,016.00
 - Exemption: \$0.00
 - Personal Property: \$0.00
 - Fixed Improvements: \$0.00
Code Area: 157-003
Parcel No.: 529-151-003-000

continued ...

11c. Supplemental Taxes for the fiscal year 2015-2016, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California:

1st Installment: \$20.43, paid
2nd Installment: \$20.43
Delinquent after: April 10, 2017
Date of Change: November 16, 2015
Factor: 0.580000

Assessment No.: 995-023-896-000
Parcel No.: 529-151-003-000

11d. Supplemental Taxes for the fiscal year 2015-2016, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California:

1st Installment: \$219.31, paid
2nd Installment: \$219.31
Delinquent after: April 10, 2017
Date of Change: March 6, 2015
Factor: 0.250000

Assessment No.: 995-023-921-000
Parcel No.: 529-151-003-000

11e. Supplemental Taxes for the fiscal year 2015-2016, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California:

1st Installment: \$219.31, paid
2nd Installment: \$219.31
Delinquent after: April 10, 2017
Date of Change: March 6, 2015
Factor: 0.250000

Assessment No.: 995-023-921-000
Parcel No.: 529-151-003-000

11f. Supplemental Taxes for the fiscal year 2015-2016, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California:

1st Installment: \$863.00, paid
2nd Installment: \$863.00
Delinquent after: April 10, 2017
Date of Change: March 6, 2015
Factor: 1.000000

Assessment No.: 996-023-921-000
Parcel No.: 529-151-003-000

12. The lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.

13. "The right of the proprietor of any lode claim, the vein or lode of which has its top or apex outside of said land and which vein or lode may be found to penetrate, intersect, pass through, or dip into said land through the side lines of said lode claim, to enter said land along the dip of said vein or lode for the purpose of extracting and removing the ore therefrom."

continued ...

14. "The provisions and reservations contained in the Patent from the United States of America to James W. Graham, et al, recorded in Book 23 of Patents, Page 337, as follows:

That the premises hereby conveyed shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of the courts. And there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

and

That in the absence of necessary legislation by Congress, the Legislature of California may provide rules for working the mining claim or premises hereby granted, involving easements, drainage, and other necessary means to the complete development thereof."

15. A waiver of any claim for any and all damages to said land by reason of the location, construction, landscaping or maintenance of the highway adjacent to said land, as contained in the Deed to the State of California.
Recorded: October 27, 1966 in Book 901 of Official Records, Page 564, under Recorder's Serial No. 17480, Humboldt County Records.

16. An easement for the purpose shown below and rights incidental thereto as set forth in a Document:
Granted to: Majestic Forest Products, Inc., a California corporation
(No representation is made as to the present ownership of said easement)
Purpose: rights in conjunction with the right to bring water to the plant through that portion of said lot lying North of the present State Highway
Recorded: December 23, 1971 in Book 1117 of Official Records, Page 271, under Recorder's Serial No. 20748, Humboldt County Records

The exact location and extent of said easement is not disclosed of record.


17. An easement for the purpose shown below and rights incidental thereto as set forth in a Document:
Granted to: United States of America
(No representation is made as to the present ownership of said easement)
Purpose: road
Recorded: November 30, 1976 in Book 1380 of Official Records, Page 218, under Recorder's Serial No. 23185, Humboldt County Records
Affects: portions of said land as set forth therein

18. Any defect by reason of discrepancies in boundaries as shown on the Record of Survey filed in Book 54 of Surveys, Page 148, in the following note:

" Major discrepancies exist between the patents for the Graham & Company Placer Mine and the Haines Placer Mine. Adhering to the doctrine of senior rights would give favor to the Graham patent. However, all evidence indicates several courses in that patent are in error. The four courses beginning at point "A" and going westerly are incompatible with surrounding deeds and monuments. The Haines survey was subsequent to the Graham survey by four years and recovered original Graham monuments. The courses in the Haines deed fit surrounding deeds and surveys and were therefore relied upon in our reestablishment of lines and monuments. The original monuments along these courses have been destroyed by slides, fire, or time. We established point "B" by holding record data from the south and distributed the difference between record and measured data evenly along the four courses in question, resulting in our monuments being placed as close as possible to the original positions. "

END OF SCHEDULE B

RJ/dk

 First American Title™	Commitment for Title Insurance
	BY First American Title Insurance Company
Schedule B - 2	TRIBE TO TRUST

File No.: 156177


SECTION ONE

EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

PART I:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

 First American Title™	Commitment for Title Insurance
	BY First American Title Insurance Company
Schedule B - 2	TRIBE TO TRUST

File No.: 156177

SCHEDULE B - SECTION TWO

**EXCEPTIONS FROM COVERAGE
PART II:**

7. Any claim that the United States lacks proper authority to acquire or hold title to the land, or arising from or related to an alleged defect in the process of approving or authorizing the acquisition of title by the United States of America in Trust for Karuk Tribe, a federally recognized tribe
8. Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances or regulations of an Indian tribe or nation.
9. Public records as defined in this Policy do not include records of an Indian tribe, band, pueblo, nation, community, village, Rancheria or similar entity or association of Indians or any other repository of Indian Land Records, including, but not limited to the Bureau of Indian Affairs Land Titles and Records Office.
- 9a. Any claim arising from the failure of a deed to the United States of America in Trust for the Karuk Tribe, a federally recognized tribe to record in the Bureau of Indian Affairs Land Title and Records Office.
10. Tribal records for any tax, law or regulation are not "public records" within the meaning of this policy, and this policy provides no coverage respecting any loss occasioned by any such tribal tax law or regulation.
- 11a. Property taxes, including any assessments collected with taxes, to be levied for the fiscal year 2017-2018, which are a lien not yet payable.
Code Area: 157-003 Parcel No.: 529-161-001-000
- 11b. Property taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2016-2017:

1st Installment:	\$2,740.65, paid
2nd Installment:	\$2,740.65, payable but not yet due
Delinquent after:	April 10, 2017
Land:	\$527,048.00
Structural Improvements:	\$0.00
Exemption:	\$0.00
Personal Property:	\$0.00
Fixed Improvements:	\$0.00

Code Area: 157-003
Parcel No.: 529-161-001-000
12. The lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.
13. Any claim that any portion of the land is below the ordinary high water mark where it was located prior to any artificial or avulsive changes in the location of the shoreline or riverbank.

Continued ...

14. Any rights, interests, or easements in favor of the public, which exist or are claimed to exist over any portion of said land covered by water, including a public right of access to the water.

15. "The provisions and reservations contained in the Patent from the United States of America to Thomas Baird, et al, recorded in Book 5 of Patents, Page 260, as follows:

"The right of the proprietor of any lode claim, the vein or lode of which has its top or apex outside of said land and which vein or lode may be found to penetrate, intersect, pass through, or dip into said land through the side lines of said lode claim, to enter said land along the dip of said vein or lode for the purpose of extracting and removing the ore therefrom."

That the premises hereby conveyed shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of courts.

and

That in the absence of necessary legislation by Congress, the Legislature of California may provide rules for working the mining claim or premises hereby granted, involving easements, drainage, and other necessary means to the complete development thereof."

16. Rights of the public in and to any portion of said land lying within the County Roads.

17. An easement for the purpose shown below and rights incidental thereto as set forth in a Document:

Granted to: Orleans Community Services District
(No representation is made as to the present ownership of said easement)
Purpose: public utilities, ingress and egress
Recorded: August 3, 1978 in Book 1507 of Official Records, Page 154, under Recorder's Serial No. 17352, Humboldt County Records
Affects: a 20 foot strip as set forth therein

18. Any rights, interests or claims which may exist or arise by reason of the following matters disclosed by on the Record of Survey filed in Book 21 of Surveys, Page 59, as follows:

An encroachment of a trailer court into the Northerly portion of said land.

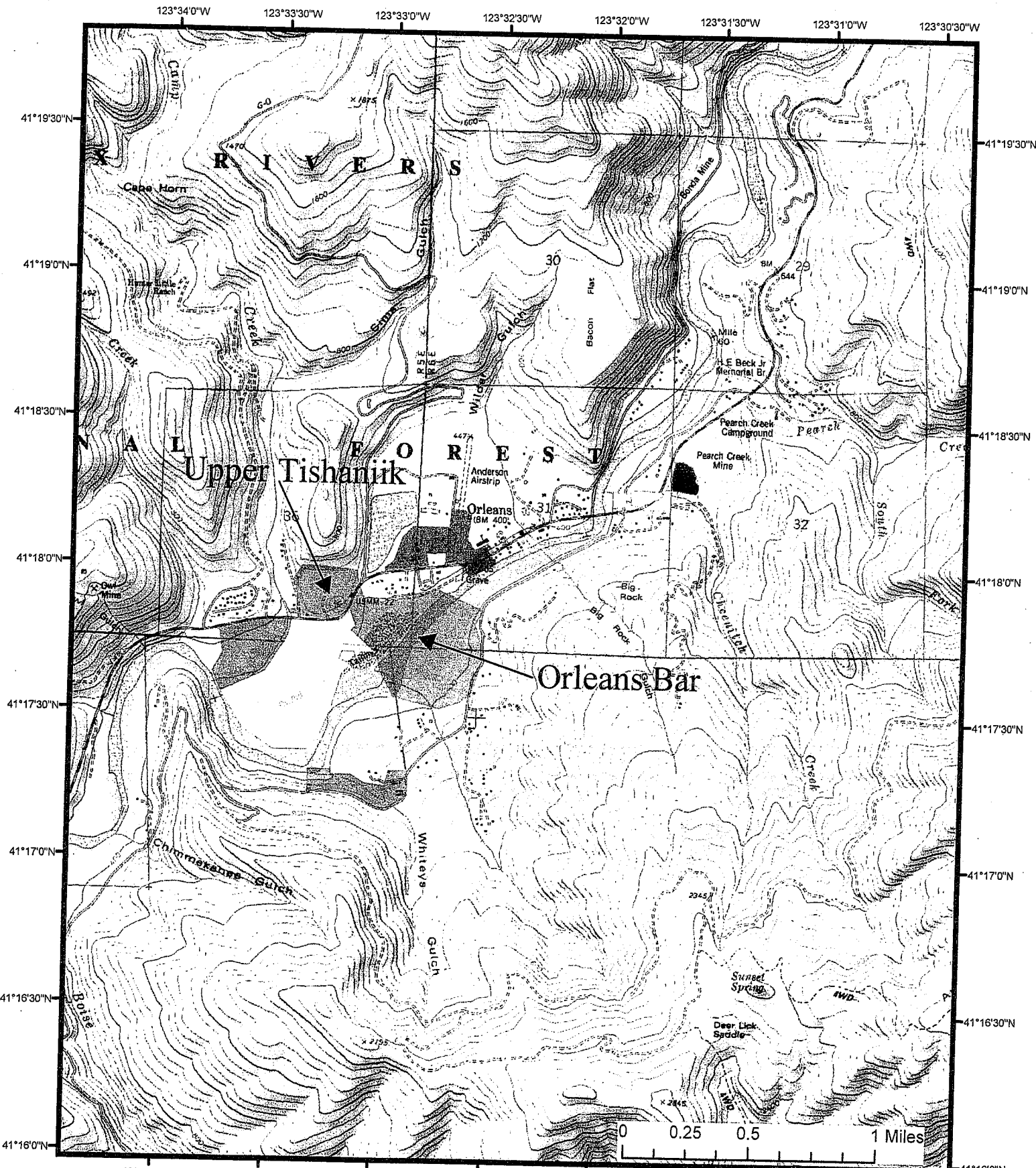
END OF SCHEDULE B

RJ/dk

INFORMATIONAL NOTES

Note: The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

The map attached, if any, may or may not be a survey of the land depicted hereon. First American expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.



LAND STATUS

	KARUK FEE
	KARUK TRUST
	KTHA FEE
	KTHA TRUST

KARUK TRUST & FEE LANDS

ORLEANS, CA



Titles and Records Offices are designated as Certifying Officers for this purpose. When a copy or reproduction of a title document is authenticated by the official seal and certified by a Manager, Land Titles and Records Office, the copy or reproduction shall be admitted into evidence the same as the original from which it was made. The fees for furnishing such certified copies are established by a uniform fee schedule applicable to all constituent units of the Department of the Interior and published in 43 CFR part 2, appendix A.

§ 150.11 Disclosure of land records, title documents, and title reports.

(a) The usefulness of a Land Titles and Records Office depends in large measure on the ability of the public to consult the records contained therein. It is therefore, the policy of the Bureau of Indian Affairs to allow access to land records and title documents unless such access would violate the Privacy Act, 5 U.S.C. 552a or other law restricting access to such records, or there are strong policy grounds for denying access where such access is not required by the Freedom of Information Act, 5 U.S.C. 552. It shall be the policy of the Bureau of Indian Affairs that, unless specifically authorized, monetary considerations will not be disclosed insofar as leases of tribal land are concerned.

(b) Before disclosing information concerning any living individual, the Manager, Land Titles and Records Office, shall consult 5 U.S.C. 552a(b) and the notice of routine users then in effect to determine whether the information may be released without the written consent of the person to whom it pertains.

PART 151—LAND ACQUISITIONS

- Sec.
- 151.1 Purpose and scope.
 - 151.2 Definitions.
 - 151.3 Land acquisition policy.
 - 151.4 Acquisitions in trust of lands owned in fee by an Indian.
 - 151.5 Trust acquisitions in Oklahoma under section 5 of the I.R.A.
 - 151.6 Exchanges.
 - 151.7 Acquisition of fractional interests.
 - 151.8 Tribal consent for nonmember acquisitions.

- 151.9 Requests for approval of acquisitions.
- 151.10 On-reservation acquisitions.
- 151.11 Off-reservation acquisitions.
- 151.12 Action on requests.
- 151.13 Title examination.
- 151.14 Formalization of acceptance.
- 151.15 Information collection.

AUTHORITY: R.S. 161; 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d-10, 1466, 1495, and other authorizing acts.

CROSS REFERENCE: For regulations pertaining to: The inheritance of interests in trust or restricted land, see parts 15, 16, and 17 of this title and 43 CFR part 4; the purchase of lands under the BIA Loan Guaranty, Insurance and Interest Subsidy program, see part 103 of this title; the exchange and partition of trust or restricted lands, see part 152 of this title; land acquisitions authorized by the Indian Self-Determination and Education Assistance Act, see parts 900 and 276 of this title; the acquisition of allotments on the public domain or in national forests, see 43 CFR part 2530; the acquisition of Native allotments and Native townsite lots in Alaska, see 43 CFR parts 2561 and 2564; the acquisition of lands by Indians with funds borrowed from the Farmers Home Administration, see 7 CFR part 1823, subpart N; the acquisition of land by purchase or exchange for members of the Osage Tribe not having certificates of competency, see §§ 117.8 and 158.54 of this title.

SOURCE: 45 FR 62036, Sept. 18, 1980, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 151.1 Purpose and scope.

These regulations set forth the authorities, policy, and procedures governing the acquisition of land by the United States in trust status for individual Indians and tribes. Acquisition of land by individual Indians and tribes in fee simple status is not covered by these regulations even though such land may, by operation of law, be held in restricted status following acquisition. Acquisition of land in trust status by inheritance or escheat is not covered by these regulations. These regulations do not cover the acquisition of

§ 151.2

25 CFR Ch. I (4-1-14 Edition)

land in trust status in the State of Alaska, except acquisitions for the Metlakatla Indian Community of the Annette Island Reserve or its members.

§ 151.2 Definitions.

(a) *Secretary* means the Secretary of the Interior or authorized representative.

(b) *Tribe* means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of the Annette Island Reserve, which is recognized by the Secretary as eligible for the special programs and services from the Bureau of Indian Affairs. For purposes of acquisitions made under the authority of 25 U.S.C. 488 and 489, or other statutory authority which specifically authorizes trust acquisitions for such corporations, "Tribe" also means a corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477) or section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503).

(c) *Individual Indian* means:

(1) Any person who is an enrolled member of a tribe;

(2) Any person who is a descendent of such a member and said descendant was, on June 1, 1934, physically residing on a federally recognized Indian reservation;

(3) Any other person possessing a total of one-half or more degree Indian blood of a tribe;

(4) For purposes of acquisitions outside of the State of Alaska, *Individual Indian* also means a person who meets the qualifications of paragraph (c)(1), (2), or (3) of this section where "Tribe" includes any Alaska Native Village or Alaska Native Group which is recognized by the Secretary as eligible for the special programs and services from the Bureau of Indian Affairs.

(d) *Trust land* or *land in trust status* means land the title to which is held in trust by the United States for an individual Indian or a tribe.

(e) *Restricted land* or *land in restricted status* means land the title to which is held by an individual Indian or a tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary because of limi-

tations contained in the conveyance instrument pursuant to Federal law or because of a Federal law directly imposing such limitations.

(f) Unless another definition is required by the act of Congress authorizing a particular trust acquisition, *Indian reservation* means that area of land over which the tribe is recognized by the United States as having governmental jurisdiction, except that, in the State of Oklahoma or where there has been a final judicial determination that a reservation has been disestablished or diminished, *Indian reservation* means that area of land constituting the former reservation of the tribe as defined by the Secretary.

(g) *Land* means real property or any interest therein.

(h) *Tribal consolidation area* means a specific area of land with respect to which the tribe has prepared, and the Secretary has approved, a plan for the acquisition of land in trust status for the tribe.

[45 FR 62036, Sept. 18, 1980, as amended at 60 FR 32879, June 23, 1995]

§ 151.3 Land acquisition policy.

Land not held in trust or restricted status may only be acquired for an individual Indian or a tribe in trust status when such acquisition is authorized by an act of Congress. No acquisition of land in trust status, including a transfer of land already held in trust or restricted status, shall be valid unless the acquisition is approved by the Secretary.

(a) Subject to the provisions contained in the acts of Congress which authorize land acquisitions, land may be acquired for a tribe in trust status:

(1) When the property is located 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 acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.

(b) Subject to the provisions contained in the acts of Congress which authorize land acquisitions or holding

land in trust or restricted status, land may be acquired for an individual Indian in trust status:

- (1) When the land is located within the exterior boundaries of an Indian reservation, or adjacent thereto; or
- (2) When the land is already in trust or restricted status.

§ 151.4 Acquisitions in trust of lands owned in fee by an Indian.

Unrestricted land owned by an individual Indian or a tribe may be conveyed into trust status, including a conveyance to trust for the owner, subject to the provisions of this part.

§ 151.5 Trust acquisitions in Oklahoma under section 5 of the I.R.A.

In addition to acquisitions for tribes which did not reject the provisions of the Indian Reorganization Act and their members, land may be acquired in trust status for an individual Indian or a tribe in the State of Oklahoma under section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465), if such acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

§ 151.6 Exchanges.

An individual Indian or tribe may acquire land in trust status by exchange if the acquisition comes within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

§ 151.7 Acquisition of fractional interests.

Acquisition of a fractional land interest by an individual Indian or a tribe in trust status can be approved by the Secretary only if:

- (a) The buyer already owns a fractional interest in the same parcel of land; or
- (b) The interest being acquired by the buyer is in fee status; or
- (c) The buyer offers to purchase the remaining undivided trust or restricted interests in the parcel at not less than their fair market value; or
- (d) There is a specific law which grants to the particular buyer the right to purchase an undivided interest or interests in trust or restricted land

without offering to purchase all of such interests; or

(e) The owner of a majority of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the buyer.

§ 151.8 Tribal consent for nonmember acquisitions.

An individual Indian or tribe may acquire land in trust status on a reservation other than its own only when the governing body of the tribe having jurisdiction over such reservation consents in writing to the acquisition; provided, that such consent shall not be required if the individual Indian or the tribe already owns an undivided trust or restricted interest in the parcel of land to be acquired.

§ 151.9 Requests for approval of acquisitions.

An individual Indian or tribe desiring to acquire land in trust status shall file a written request for approval of such acquisition with the Secretary. The request need not be in any special form but shall set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition comes within the terms of this part.

§ 151.10 On-reservation acquisitions.

Upon receipt of a written request to have lands taken in trust, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired, unless the acquisition is mandated by legislation. The notice will inform the state or local government that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. If the state or local government responds within a 30-day period, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply and/or request that the Secretary issue a decision. The Secretary will consider the following criteria in evaluating requests for the acquisition of land in trust status when

§ 151.11

25 CFR Ch. I (4-1-14 Edition)

the land is located within or contiguous to an Indian reservation, and the acquisition is not mandated:

(a) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(b) The need of the individual Indian or the tribe for additional land;

(c) The purposes 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) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;

(f) Jurisdictional problems and potential conflicts of land use which may arise; and

(g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(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: Hazardous Substances Determinations. (For copies, write to the Department of the Interior, Bureau of Indian Affairs, Branch of Environmental Services, 1849 C Street NW., Room 4525 MIB, Washington, DC 20240.)

[45 FR 62036, Sept. 18, 1980, as amended at 60 FR 32879, June 23, 1995]

§ 151.11 Off-reservation acquisitions.

The Secretary shall consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation, and the acquisition is not mandated:

(a) The criteria listed in § 151.10 (a) through (c) and (e) through (h);

(b) The location of the land relative to state boundaries, and its distance from the boundaries of the tribe's res-

ervation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition. The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section.

(c) Where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.

(d) Contact with state and local governments pursuant to § 151.10 (e) and (f) shall be completed as follows: Upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice shall inform the state and local government that each will be given 30 days in which to provide written comment as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

[60 FR 32879, June 23, 1995, as amended at 60 FR 48894, Sept. 21, 1995]

§ 151.12 Action on requests.

(a) The Secretary shall review each request and may request any additional information or justification deemed necessary to reach a decision.

(b) The Secretary's decision to approve or deny a request shall be in writing and state the reasons for the decision.

(c) A decision made by the Secretary, or the Assistant Secretary—Indian Affairs pursuant to delegated authority, is a final agency action under 5 U.S.C. 704 upon issuance.

(1) If the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

(2) If the Secretary or Assistant Secretary approves the request, the Assistant Secretary shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly publish in the FEDERAL REGISTER a notice of the decision to acquire land in trust under this part; and

(iii) Immediately acquire the land in trust under § 151.14 on or after the date such decision is issued and upon fulfillment of the requirements of § 151.13 and any other Departmental requirements.

(d) A decision made by a Bureau of Indian Affairs official pursuant to delegated authority is not a final agency action of the Department under 5 U.S.C. 704 until administrative remedies are exhausted under part 2 of this chapter or until the time for filing a notice of appeal has expired and no administrative appeal has been filed.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of any right to file an administrative appeal under part 2 of this chapter.

(2) If the official approves the request, the official shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly provide written notice of the decision and the right, if any, to file an administrative appeal of such decision pursuant to part 2 of this chapter, by mail or personal delivery to:

(A) Interested parties who have made themselves known, in writing, to the official prior to the decision being made; and

(B) The State and local governments having regulatory jurisdiction over the land to be acquired;

(iii) Promptly publish a notice in a newspaper of general circulation serving the affected area of the decision and the right, if any, of interested parties who did not make themselves known, in writing, to the official to file an administrative appeal of the decision under part 2 of this chapter; and

(iv) Immediately acquire the land in trust under § 151.14 upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this title, and upon the fulfillment of the requirements of § 151.13 and any other Departmental requirements.

(3) The administrative appeal period under part 2 of this chapter begins on:

(i) The date of receipt of written notice by the applicant or interested parties entitled to notice under para-

graphs (d)(1) and (d)(2)(ii) of this section;

(ii) The date of first publication of the notice for unknown interested parties under paragraph (d)(2)(iii) of this section.

(4) Any party who wishes to seek judicial review of an official's decision must first exhaust administrative remedies under 25 CFR part 2.

[78 FR 67937, Nov. 13, 2013]

§ 151.13 Title examination.

If the Secretary determines that he will approve a request for the acquisition of land from unrestricted fee status to trust status, he shall acquire, or require the applicant to furnish, title evidence meeting the *Standards For The Preparation of Title Evidence In Land Acquisitions by the United States*, issued by the U.S. Department of Justice. After having the title evidence examined, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities which may exist. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to taking final approval action on the acquisition and he shall require elimination prior to such approval if the liens, encumbrances, or infirmities make title to the land unmarketable.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995]

§ 151.14 Formalization of acceptance.

Formal acceptance of land in trust status shall be accomplished by the issuance or approval of an instrument of conveyance by the Secretary as is appropriate in the circumstances.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995]

§ 151.15 Information collection.

(a) The information collection requirements contained in §§ 151.9; 151.10; 151.11(c), and 151.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0100. This information is being collected to acquire land into trust on behalf of the Indian tribes and individuals, and will be used to assist the Secretary in making a determination. Response to this request is required to obtain a benefit.