



IN REPLY REFER TO:

United States Department of the Interior

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

RECEIVED

JUL 18 2011

San Diego County
DEPT. OF PLANNING & LAND USE

JUL 12 2011

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Distribution List:

Enclosed is a copy of our notice of an application seeking acceptance of title to real property “in trust” by the United States of America for the Pala Band of Mission Indians of California.

Said notice is issued pursuant to the Code of Federal Regulations, Title 25, INDIANS, and Parts 151.10. We are seeking your comments regarding the proposed trust land acquisition in order to obtain sufficient data that would enable an analysis of the potential impacts on local government, which may result from the removal of the subject property from the tax roll and local jurisdiction. Pertinent information regarding the proposal is included in the enclosure.

Sincerely,

Regional Director

Enclosure



IN REPLY REFER TO:

United States Department of the Interior

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

JUL 17 2011

Notice of (Non-Gaming) Land Acquisition Application

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10, notice is given of the application filed by the Pala Band of Luiseno Mission Indians (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:

Pala Band of Luiseno Mission Indians of California

Legal Land Description/Site Location:

SEE ATTACHED FOR LEGAL DESCRIPTION

Project Description/Proposed Land Use:

The subject property consists of three adjoining parcels totaling 345.32 acres more or less, commonly referred to as Assessor's Parcel Numbers: 109-141-03-00, 109-371-04-00 and 109-160-05-00. The parcel is approximately two and a half (2 ½) miles north of Highway 76 and approximately one (1) mile south of Rancho Heights Road in the unincorporated area of North San Diego County. The property is entirely undeveloped but for a small, old and

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abandoned adobe structure located in the southern portion of the property, on the east side of Temecula Road. The property is contiguous to the Pala Reservation.

While portions of the parcels are level or gently sloping, much of the property contains steeply sloping topography. The steep sloping renders much of the property inaccessible and therefore unusable for development purposes. Only approximately 67 acres (or 20%) of the property are appropriate for development purposes. The Tribe has no plans at the present to develop the property.

Current Use/Taxes and Zoning:

Assessed property taxes for 2010-2011:

109-141-03 - \$1659.02

109-371-04 - \$19,608.39

109-160-05 - \$15,263.20

Transferring the Rimsa property into trust will not have significant impact on the State of California or San Diego County's tax revenue because the amount of property taxes assessed on these parcels are small in comparison to the County's annual tax revenue.

Existing Easements/Encumbrances:

See attached 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.

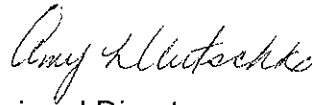
This notice does not constitute, or replace, a notice that might be issued for the purpose of compliance with the National Environmental Policy Act of 1969.

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 Lorrae Russell, Realty Specialist, at (916) 978-6071.

Sincerely,

Handwritten signature of Amy Hiteck in cursive script.

Regional Director

Enclosures

cc: Distribution List

DISTRIBUTION LIST

cc: BY CERTIFIED MAIL – RETURN RECEIPTS REQUESTED TO:

California State Clearinghouse (10 copies) - 7010 1670 0001 7402 8295
Office Planning and Research
P.O. Box 3044
Sacramento, CA 95814

Mr. Jacob Appelsmith - 7010 1670 0001 7402 8301
Legal Affairs Secretary
Office of the Governor
State Capitol Building
Sacramento, CA 95814

Sara Drake, Deputy Attorney General - 7010 1670 0001 7402 8318
State of California
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Mr. James Peterson, District Director - 7010 1670 0001 7402 8325
Office of the Honorable Dianne Feinstein
750 "B" Street, Suite 1030
San Diego, CA 92101

U.S. House of Representatives - 7010 1670 0001 7402 8332
52nd District
1870 Cordell Court, Suite 206
El Cajon, CA 92020

San Diego County Assessor - 7010 1670 0001 7402 8349
600 Pacific Highway, Suite 162
San Diego, CA 92101

San Diego Treasurer & Tax Collector - 7010 1670 0001 7402 8356
1600 Pacific Highway, Suite 162
San Diego, CA 92101-2480

County of San Diego - 7010 1670 0001 7402 6789
Office of the Chief Administrative Officer
1600 Pacific Highway
San Diego, CA 92101-2480

San Diego County Sheriff's Department - 7010 1670 0001 7402 6796
9621 Ridge Haven Court
San Diego, CA 92120

San Diego County Department of Public Works – 7010 1670 0001 7402 6802
5555 Overland, Suite 6101, MS O-340
San Diego, CA 92123

Department of Planning and Land Use – 7010 1670 0001 7402 6819
5201 Ruffin Road, Suite B, MS O-650
San Diego, CA 92123

Jack Wood- 7010 1670 0001 7402 6826
Fallbrook Planning Board
3191 Los Verdes Drive
Fallbrook, CA 92028

Chairperson - 7010 1670 0001 7402 6833
Barona Reservation
1095 Barona Road
Lakeside, CA 92040

Chairperson - 7010 1670 0001 7402 6840
Campo Band of Mission Indians
36190 Church Rd., Suite 1
Campo, CA 91906

Chairperson - 7010 1670 0001 7402 6857
Ewiiapaayp Band of Kumeyaay Indians
4054 Willows Road
Alpine, CA 91901

Chairperson - 7010 1670 0001 7402 6864
Jamul Indian Village
P.O. Box 612
Jamul, CA 91935

Chairperson - 7010 1670 0001 7402 6871
La Jolla Band of Luiseno Indians
22000 Highway 76
Pauma Valley, CA 92061

Chairperson - 7010 1670 0001 7402 6888
La Posta Band of Mission Indians
P.O. Box 1120
Boulevard, CA 91905

Chairperson - 7010 1670 0001 7402 6895
Los Coyotes Band of Chauilla & Cupeno Indians
P.O. Box 189
Warner Springs, CA 92086

Chairperson - 7010 1670 0001 7402 6901
Manzanita Band of Mission Indians
P.O. Box 1302
Boulevard, CA 91905

Chairperson - 7010 1670 0001 7402 6918
Mesa Grande Band of Mission Indians
P.O. Box 270
Santa Ysabel, CA 92070

Chairperson – 7010 1670 0001 7402 6925
Pala Reservation
35008 Pala Temecula Rd. PMB 50
Pala, CA 92059

Chairperson - 7010 1670 0001 7402 6932
Pauma Band of Mission Indians
P. O. Box 369
Pauma Valley, CA 92061

Chairperson - 7010 1670 0001 7402 6949
Rincon Band of Mission Indians
P.O. Box 68
Valley Center, CA 92082

Chairperson - 7010 1670 0001 7402 6956
Santa Ysabel Band of Mission Indians
P.O. Box 130
Santa Ysabel, CA 92070

Chairperson – 7010 1670 0001 7402 6963
Sycuan Band of Mission Indians
5459 Sycuan Road
El Cajon, CA 92021

Chairperson - 7010 1670 0001 7402 6970
Viejas (Baron Long) Band of Mission Indians
P.O. Box 908
Alpine, CA 91903

Regular Mail:

Chairperson
Inaja-Cosmit Band of Mission Indians
309 S. Maple Street
Escondido, CA 92025

Superintendent, Southern California Agency, BIA
1451 Research Park Drive, Ste 100
Riverside, California 92507-2154

LEGAL DESCRIPTION

PARCEL 1:

ALL THAT PORTION OF THE WEST HALF OF THE WEST HALF OF SECTION 15, TOWNSHIP 9 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, AS DESCRIBED IN PARCEL 1 OF CERTIFICATE OF COMPLIANCE RECORDED JULY 31, 1980 AS FILE NO. 80-242819 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF THE WEST HALF OF THE WEST HALF OF SAID SECTION 15, LYING EASTERLY OF THE CENTERLINE OF COUNTY ROAD SURVEY NO. 319, ACCORDING TO PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY ENGINEER OF SAID SAN DIEGO COUNTY AND LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE WEST HALF OF SAID SECTION 15; THENCE ALONG THE EASTERLY LINE THEREOF NORTH $01^{\circ}06'05''$ EAST 3100.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE NORTH $50^{\circ}34'20''$ WEST 835.04 FEET MORE OR LESS TO A POINT IN THE CENTER LINE OF SAID ROAD SURVEY NO. 319.

EXCEPTING FROM THAT PORTION LYING WITHIN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, 1/16TH OF ALL COAL, OIL, GAS AND OTHER MINERAL DEPOSITS CONTAINED IN SAID LAND, AS RESERVED TO THE STATE OF CALIFORNIA IN THE PATENT TO SAID LAND RECORDED IN BOOK 15, PAGE 259 OF PATENTS, RECORDS OF SAN DIEGO COUNTY.

PARCEL 2:

ALL THAT PORTION OF THE WEST HALF OF SECTION 15 AND THAT PORTION OF THE EAST HALF OF SECTION 16, TOWNSHIP 9 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, AS DESCRIBED IN PARCEL 2 OF CERTIFICATE OF COMPLIANCE RECORDED JULY 31, 1980 AS FILE NO. 80-242819 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF THE WEST HALF OF SAID SECTION 15 LYING WESTERLY OF THE CENTERLINE OF COUNTY ROAD SURVEY NO. 319, ACCORDING TO PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY ENGINEER OF SAID SAN DIEGO COUNTY AND LYING SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT IN THE WEST LINE OF SAID SECTION 15, DISTANT ALONG SAID LINE NORTH 3845.67 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 15, THENCE NORTH $59^{\circ}56'15''$ EAST 802.00 FEET MORE OR LESS TO A POINT IN THE CENTERLINE OF SAID COUNTY ROAD SURVEY NO. 319.

TOGETHER WITH THAT PORTION OF THE EAST 195.00 FEET OF SAID SECTION 16, LYING SOUTHERLY OF A LINE WHICH BEARS SOUTH $59^{\circ}56'15''$ WEST FROM A POINT IN THE EAST LINE OF SAID SECTION, DISTANT ALONG SAID EAST LINE NORTH 3845.67 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 16.

LEGAL DESCRIPTION

(continued)

EXCEPTING FROM THAT PORTION LYING WITHIN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, 1/16TH OF ALL COAL, OIL, GAS AND OTHER MINERAL DEPOSITS CONTAINED IN SAID LAND, AS RESERVED TO THE STATE OF CALIFORNIA IN THE PATENT TO SAID LAND RECORDED IN BOOK 15, PAGE 259 OF PATENTS, RECORDS OF SAN DIEGO COUNTY.

EXCEPTING FROM THAT PORTION LYING WITHIN SECTION 16, ALL OIL, GAS, OIL, SHALE, COAL, PHOSPHATE, SODIUM, GOLD, SILVER AND ALL OTHER MINERAL DEPOSITS CONTAINED IN SAID LAND AS RESERVED BY PATENT RECORDED OCTOBER 20, 1954, IN BOOK 5404, PAGE 188 OF OFFICIAL RECORDS.

PARCEL 3:

ALL THOSE PORTIONS OF THE WEST HALF OF THE WEST HALF OF SECTION 15 AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 9 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, AS DESCRIBED IN PARCEL 3 OF CERTIFICATE OF COMPLIANCE RECORDED JULY 31, 1980 AS FILE NO. 80-242819 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF THE WEST HALF OF THE WEST HALF OF SAID SECTION 15 LYING EASTERLY OF THE CENTERLINE OF COUNTY ROAD SURVEY NO. 319 ACCORDING TO PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY ENGINEER OF SAID SAN DIEGO COUNTY LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE WEST HALF OF SAID SECTION 15; THENCE ALONG THE EASTERLY LINE THEREOF NORTH 01°06'05" EAST 3100.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE NORTH 50°34'20" WEST 835.04 FEET MORE OR LESS TO A POINT IN THE CENTERLINE OF SAID COUNTY ROAD SURVEY NO. 319.

TOGETHER WITH THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10 LYING EASTERLY OF SAID COUNTY ROAD SURVEY NO. 319 AND SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10; THENCE ALONG THE EASTERLY LINE THEREOF NORTH 00°35'42" WEST 920.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE NORTH 67°29'52" WEST 626.60 FEET, MORE OR LESS TO A POINT IN THE CENTERLINE OF SAID COUNTY ROAD SURVEY NO. 319.

PARCEL 4:

THAT PORTION OF SECTION 10, TOWNSHIP 9 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AS DESCRIBED IN PARCEL 4 OF CERTIFICATE OF COMPLIANCE RECORDED JULY 31, 1980 AS FILE NO. 80-242819 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION

(continued)

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 9 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THEREFROM THAT PORTION OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER WHICH LIES WESTERLY OF THE CENTERLINE OF COUNTY ROAD SURVEY NO. 319 ACCORDING TO PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY ENGINEER OF SAID SAN DIEGO COUNTY.

ALSO EXCEPTING THEREFROM THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER WHICH LIES EASTERLY OF THE CENTERLINE OF SAID COUNTY ROAD SURVEY NO. 319 AND SOUTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 10; THENCE ALONG THE EASTERLY LINE THEREOF NORTH 00°35'42" WEST 920.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY LINE NORTH 67°29'52" WEST 626.60 FEET MORE OR LESS TO A POINT IN THE CENTERLINE OF SAID COUNTY ROAD SURVEY NO. 319.

APN: 109-141-03-00 and 109-371-04-00 and 109-160-05-00

END OF LEGAL DESCRIPTION

SCHEDULE B – SECTION II

EXCEPTIONS

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

- A. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
- B. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
- C. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
- D. (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.
 - 1. "Terms and conditions of Treaties and Statutes affecting the land and the subject tribe."
 - 2. Property taxes, including any assessments collected with taxes, for the fiscal year 2009 – 2010 that are a lien not yet due.
 - 3. 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
 - 4. Water rights, claims or title to water, whether or not shown by the public records.
 - 5. A right of way for ditches and canals as reserved by the United States of America in the patent recorded August 26, 1921 as Book 13, Page 422; April 5, 1923 in Book 14, Page 124; May 7, 1927 in Book 14, Page 454 and January 10, 1931 in Book 15, Page 259 of Patent and May 7, 1936 in Book 509, Page 228 of Official Records
 - 6. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: Pacific Telephone and Telegraph Company
Purpose: public utilities, ingress, egress
Recorded: January 21, 1924 in Book 978, Page 362 of Deeds
Affects: The route thereof affects a portion of said land and is more fully described in said document.

- 7. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: Pacific Telephone and Telegraph Company
Purpose: public utilities, ingress, egress
Recorded: January 1924 in book 978, page 363 of Deeds
Affects: The route thereof affects a portion of said land and is more fully described in said document.

SCHEDULE B – SECTION II
(continued)

8. An easement for the purpose shown below and rights incidental thereto as set forth in a document.

Granted To: County of San Diego
Purpose: Public road
Recorded: March 18, 1948 in book 2718, page 399 of Official Records
Affects: Road Survey No. 601

Said instrument additionally contains the privilege and right to extend drainage structures and excavation and embankment slopes beyond the limits where required for the construction and maintenance thereof

9. The terms and provisions contained in the document entitled **“Certificate of Compliance”** recorded July 31, 1980 as File No. 1980-242819 of Official Records

10. Any rights of parties in possession of said land, based on any unrecorded lease, or leases.

This Company will require a full copy of any unrecorded lease, together with all supplements, assignments, and amendments for review.

11. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the Effective Date but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

Note: The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance coverage.

Note: Notwithstanding anything to the contrary in this Commitment, if the policy to be issued is other than an ALTA Owner’s Policy (6/17/06) or ALTA Loan Policy (6/17/06), the policy may not contain an arbitration clause, or the terms of the arbitration clause may be different from those set forth in this Commitment. If the policy does contain an arbitration clause, and the Amount of Insurance is less than the amount, if any, set forth in the 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.

END OF SCHEDULE B

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

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 descendant 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 limitations

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

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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 all requests and shall promptly notify the applicant in writing of his decision. The Secretary may request any additional information or justification he considers necessary to enable him to reach a decision. If the Secretary determines that the request should be denied, he shall advise the applicant of that fact and the reasons therefor in writing and notify him of the right to appeal pursuant to part 2 of this title.

(b) Following completion of the Title Examination provided in § 151.13 of this part and the exhaustion of any administrative remedies, the Secretary shall publish in the FEDERAL REGISTER, or in a newspaper of general circulation serving the affected area a notice of his/her decision to take land into trust under this part. The notice will state that a final agency determination to take land in trust has been made and that the Secretary shall acquire title in the name of the United States no

sooner than 30 days after the notice is published.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995, as amended at 61 FR 18083, Apr. 24, 1996]

§ 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.

(b) Public reporting for this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information

collection. Direct comments regarding the burden estimate or any other aspect of this information collection to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 337-SIB, 18th and C Streets, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Project 1076-0100], Office of Management and Budget, Washington, DC 20502.

[60 FR 32879, June 23, 1995; 64 FR 13895, Mar. 23, 1999]

PART 152—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

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