



IN REPLY REFER TO:

## United States Department of the Interior

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

APR 29 2016

### **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 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 Mission Indians

#### **Legal Land Description/Site Location:**

PARCEL 1 OF PARCEL MAP NO. 6463, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY OCTOBER 20, 1977 AS FILE NO. 1977-433109 OF OFFICIAL RECORDS, BEING A DIVISION OF LOTS 26, 27, 28 AND PORTION OF LOT 25 IN SECTION 27, TOWNSHIP 9 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO PLAT THEREOF.



**Project Description/Proposed Land Use:**

The subject property consists of one parcel totaling 4.18 acres more or less, commonly referred to as Assessor's Parcel Number 110-100-42. The property is currently an abandoned lot, which the Tribe plans to use for new homes for its Tribal Members and families. The property is within the exterior boundaries of the Pala Reservation and is surrounded by trust lands on all four sides. Further, the parcel is immediately adjacent to development infrastructure, such as power, water, and roads.

**Current Use/Taxes and Zoning:**

Assessed property taxes for 2015-2016:

110-100-42- \$3,010.52

**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,

  
Regional Director

Enclosures

cc: Distribution List

## DISTRIBUTION LIST

cc: BY CERTIFIED MAIL – RETURN RECEIPTS REQUESTED TO:

California State Clearinghouse (10 copies) - 7015 0640 0003 6796 2037  
Office Planning and Research  
P.O. Box 3044  
Sacramento, CA 95814

Mr. Joe Dhillon - 7015 0640 0003 6796 2044  
Senior Advisor for Tribal Negotiations  
Office of the Governor  
State Capitol Building, Suite 1173  
Sacramento, CA 95814

Ms. Sara J. Drake, Deputy Attorney General – 7015 0640 0003 6796 2051  
State of California  
Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

U.S. Senator Dianne Feinstein – 7015 0640 0003 6796 2068  
331 Hart Senate Office Building  
Washington, DC 20510

U.S. House of Representatives - 7015 0640 0003 6796 2075  
52<sup>nd</sup> District  
4350 Executive Drive, Suite 105  
San Diego, CA 92121

San Diego County Assessor - 7015 0640 0003 6796 2082  
600 Pacific Highway, Suite 103  
San Diego, CA 92101

San Diego Treasurer & Tax Collector - 7015 0640 0003 6796 2099  
1600 Pacific Highway, Suite 162  
San Diego, CA 92101-2474

County of San Diego - 7015 0640 0003 6796 2105  
Office of the Chief Administrative Officer  
1600 Pacific Highway, Room 209  
San Diego, CA 92101

San Diego County Sheriff's Department - 7015 0640 0003 6796 2112  
P.O. Box 939062  
San Diego, CA 92193-9062

San Diego County Department of Public Works - 7015 0640 0003 6796 2129  
5510 Overland Avenue, Suite 410  
San Diego, CA 92123

Department of Planning and Development Services - 7015 0640 0003 6796 2136  
5510 Overland Ave. Suite 310  
San Diego, CA 92123

Jack Wood- 7015 0640 0003 6796 2143  
Fallbrook Planning Board  
3191 Los Verdes Drive  
Fallbrook, CA 92028

Chairperson – 7015 0640 0003 6796 2150  
Barona Reservation  
1095 Barona Rd.  
Lakeside, CA 92040

Chairperson - 7015 0640 0003 6796 2167  
Campo Band of Mission Indians  
36190 Church Rd., Suite 1  
Campo, CA 91906

Chairperson - 7015 0640 0003 6796 2174  
Ewiiapaayp Band of Kumeyaay Indians  
4054 Willows Road  
Alpine, CA 91901

Chairperson - 7015 0640 0003 6796 2181  
Jamul Indian Village  
P.O. Box 612  
Jamul, CA 91935

Chairperson - 7015 0640 0003 6796 2198  
La Jolla Band of Luiseno Indians  
22000 Highway 76  
Pauma Valley, CA 92061

Chairperson - 7015 0640 0003 6796 2204  
La Posta Band of Mission Indians  
8 Crestwood Road, Box 1  
Boulevard, CA 91905

Chairperson - 7015 0640 0003 6796 2211  
Los Coyotes Band of Cahuilla & Cupeno Indians  
P.O. Box 189  
Warner Springs, CA 92086

Chairperson - 7015 0640 0003 6796 2228  
Manzanita Band of Mission Indians  
P.O. Box 1302  
Boulevard, CA 91905

Chairperson - 7015 0640 0003 6796 2235  
Mesa Grande Band of Mission Indians  
P.O. Box 270  
Santa Ysabel, CA 92070

Chairperson - 7015 0640 0003 6796 2242  
Pauma Band of Mission Indians  
P. O. Box 369  
Pauma Valley, CA 92061

Chairperson - 7015 0640 0003 6796 2259  
Pechanga Band of Mission Indians  
P.O. Box 1477  
Temecula, CA 92593

Chairperson - 7015 0640 0003 6796 2266  
Rincon Band of Mission Indians  
1 West Tribal Road  
Valley Center, CA 92082

Chairperson - 7015 0640 0003 6796 2273  
San Pasqual Band of Mission Indians  
P.O. Box 365  
Valley Center, CA 92082

Chairperson - 7015 0640 0003 6796 2280  
Santa Ysabel Band of Mission Indians  
P.O. Box 130  
Santa Ysabel, CA 92070

Chairperson – 7015 0640 0003 6796 2297  
Sycuan Band of Mission Indians  
1 Kumeyaay Court  
El Cajon, CA 92019

Chairperson - 7015 0640 0003 6796 2303  
Viejas (Baron Long) Band of Mission Indians  
P.O. Box 908  
Alpine, CA 91903

Regular Mail:

Chairperson - Fax  
Inaja-Cosmit Band of Mission Indians  
2005 S. Escondido Blvd.  
Escondido, CA 92025

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

## 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 2015 - 2016

1 <sup>st</sup> Installment:	\$1,505.26
Penalty:	\$150.52 (Due after December 10, 2015)
2 <sup>nd</sup> Installment:	\$1,505.26
Penalty and Cost:	\$160.52 (Due after April 10, 2016)
Code Area:	57005

Assessors Parcel Number: 110-100-42

- 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. The Effect of the following Recital:

Subject to lien for construction, operation and maintenance charges in accordance with the Act of March 7, 1928, (45 stat. 200-210) as supplemented by the act of July 1, 1932, (47 stat. 564-565) as contained in patent deeds:

Recorded: January 23, 1967 as file no. 1967-9075; January 23, 1967 as file no. 1967-9076; May 18, 1967 as file no. 1967-69879; January 31, 1968 as file no. 1968-17152, all of official records.



**SCHEDULE B – SECTION II**  
(continued)

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

Granted To: United States  
 Purpose: the right to enter upon and install an eight inch buried irrigation pipeline and control structures with the right to enter upon the said described land for the purposes of operating and maintaining said pipeline and control structures  
 Recorded: April 23, 1968 as File No. 1968-67899 and May 15, 1968 as File No. 1968-81482 both of Official Records  
 Affects: The route thereof affects a portion of said land and is more fully described in said document.

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

Granted To: San Diego Gas and Electric Company  
 Purpose: public utilities, ingress, egress  
 Recorded: November 18, 1976 as File No. 1976-386401 of Official Records  
 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: County of San Diego  
 Purpose: County highway  
 Recorded: February 14, 1977 as File No. 1977-055022 of Official Records  
 Affects: The route thereof affects a portion of said land and is more fully described in said document.

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

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

Granted To: San Diego County Drainage Maintenance District No. 1  
 Purpose: Flowage of waters  
 Recorded: May 2, 1977 as File No. 1977-164571 of Official Records  
 Affects: The route thereof affects a portion of said land and is more fully described in said document.

9. Parcel Map referred to in the legal description herein contains various restriction or requirements for improving or developing the property herein described, including but not limited to potable water supply, sewage disposal systems, ste backs, flood plains or improvement agreements.

**SCHEDULE B – SECTION II**  
(continued)

10. An easement for the purpose shown below and rights incidental thereto as shown or as offered for dedication on the recorded Map shown below.

Map No.: 6463  
Easement  
Purpose: Proposed 20 and 30 foot private road  
Affects: As shown on said map

11. Proposed Street Widening lying within the Northeasterly 26.00 feet of said parcel 1 lying adjacent to "Pala Temecula Road" land as reflected on Parcel Map No. 6463.

12. An easement for the purpose shown below and rights incidental thereto as reserved in a document.

Purpose: Road and utility purposes  
Recorded: October 13, 1978 as File No. 78-436248 of Official Records  
Affects: The route thereof affects a portion of said land and is more fully described in said document.

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

Granted To: San Diego Gas and Electric Company  
Purpose: public utilities, ingress, egress  
Recorded: November 5, 1980 as File No. 80-372888 of Official Records  
Affects: The route thereof affects a portion of said land and is more fully described in said document.

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

Granted To: San Diego Gas and Electric Company  
Purpose: public utilities, ingress, egress  
Recorded: July 1, 1986 as File No. 86-272001 of Official Records  
Affects: The route thereof affects a portion of said land and is more fully described in said document.

Said Easement was assigned to pacific bell by assignment recorded November 30, 1989 as file no. 1989-646920 of official records.

15. The fact, that said area is subject to inundation by the 100 year flood as shown on Parcel Map 6463.

**SCHEDULE B – SECTION II**  
(continued)

16. 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.

17. 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



## Bureau of Indian Affairs, Interior

## § 151.1

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 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

## Bureau of Indian Affairs, Interior

## § 151.10

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



**Bureau of Indian Affairs, Interior**

**§ 151.15**

(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.