

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 17 2014

Memorandum

To: Honorable Steven K. Linscheid
Chief Judge
Interior Board of Indian Appeals
U.S. Department of the Interior

From: Kevin K. Washburn
Assistant Secretary – Indian Affairs
U.S. Department of the Interior

Subject: Notice of Appeal, received June 6, 2014, by the Capay Valley Coalition appealing a decision by the Director, Pacific Region, Bureau of Indian Affairs, dated April 28, 2014, concerning the acquisition of 853 acres of land into trust for the Yocha DeHe Wintun Nation, California

Please be advised that consistent with the attached memorandum dated November 12, 2013, on the "Assumption of Jurisdiction over certain appeals of fee-to-trust decisions to the Interior Board of Indian Appeals pursuant to 25 C.F.R. § 2.4(c)," I am exercising my authority to invoke the provisions of 25 C.F.R. § 2.20(c) and 43 C.F.R. § 4.332(b) and assume jurisdiction over the subject appeal. I received a copy of the Capay Valley Coalition's (Appellant) Notice of Appeal on June 6, 2014, which included a copy of the Regional Director's decision of April 28, 2014.

Once the Interior Board of Indian Appeals transfers the appeal to me, I will issue an order for the administrative record and provide other instructions to Appellant and interested parties.

Please forward any notices, pleadings, or other documents that you may have received regarding the subject appeal to James V. DeBergh, Attorney-Advisor in the Office of the Solicitor, Division of Indian Affairs, who is assisting me in this matter:

James V. DeBergh
U.S. Department of the Interior
Office of the Solicitor, Division of Indian Affairs
1849 C Street NW
MS-6513-MIB
Washington, DC 20240
(202) 208-5498

CERTIFICATE OF SERVICE

I certify that on the 18th day of June, 2014, I delivered a true copy of the foregoing Memorandum to each of the persons named below, either by depositing an appropriately addressed copy in the United States mail, or by hand-delivery.

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U.S. Department of the Interior
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**Marshall McKay
Chairman, Yocha DeHe Wintun Nation
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**Troy Burdick
Superintendent, Central California Agency
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**Assistant Regional Solicitor, Office of the Solicitor
Pacific Southwest Region
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**Yolo County Assessor
625 Court Street, Room 104
Woodland, CA 95695**

**Yolo County Treasurer/Tax Collector
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**Yolo County Board of Supervisors
Julie Dachter, Deputy Clerk of the Board
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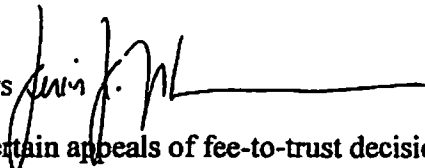
United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

NOV 12 2013

Memorandum

To: All Regional Directors, Bureau of Indian Affairs
Interior Board of Indian Appeals

From: Assistant Secretary – Indian Affairs 

Subject: Assumption of Jurisdiction over certain appeals of fee-to-trust decisions to the Interior Board of Indian Appeals pursuant to 25 C.F.R. § 2.4(c).

One of the most important authorities and responsibilities entrusted to the Department of the Interior (Department) is whether to acquire land in trust for Indian tribes pursuant to Federal law. Restoring tribal homelands is critical to promoting tribal self-determination and self-governance and remedying the negative effects of repudiated policies of allotment and assimilation.

The majority of all fee-to-trust acquisition decisions are made by a BIA Regional Director and are appealable to the Interior Board of Indian Appeals (IBIA) pursuant to 25 C.F.R. Part 2. Under the Department's existing regulations, the Assistant Secretary – Indian Affairs (AS-IA) possesses the authority to assume jurisdiction over appeals challenging fee-to-trust acquisition decisions made by a Regional Director. Appeals of fee-to-trust acquisition decisions involving large parcels are often particularly important to tribes, states, and local governments.

Given the importance of such appeals to all parties, pursuant to 25 C.F.R. § 2.4(c), and following the procedures set forth at 25 C.F.R. § 2.20, the AS-IA will assume jurisdiction over all appeals to the IBIA challenging the BIA's decision to acquire land in trust for parcels of land that cumulatively total 200 acres or more.

New Policy for Appeals of Fee-to-Trust Decisions Concerning at Least 200 Acres

In order to provide parties with the opportunity for review by the AS-IA, the AS-IA will assume jurisdiction over all appeals to the IBIA challenging a Regional Director's decision to acquire land in trust for parcels of land that cumulatively total at least 200 acres. Under 25 C.F.R. § 2.4, various officials may decide appeals of certain decisions of the Department and, under 25 C.F.R. § 2.20, the AS-IA may assume jurisdiction over appeals filed with the IBIA.

Under 25 C.F.R. § 2.20, when an appeal is made to the IBIA, a copy of the appeal is to be sent to the AS-IA. Paragraph (c) states that "a notice of appeal to the [IBIA] shall not be effective until 20 days after receipt by the Board." During this 20-day window, the AS-IA has the authority to decide to issue a decision in the appeal or assign the responsibility to issue a decision to the Deputy to the AS-IA.

In accordance with existing regulations, my office hereby provides notice to the Regional Directors and the IBIA that the AS-IA will assume jurisdiction over all appeals of decisions to acquire at least 200 acres of land in trust. My office will follow the procedures set forth at 25 C.F.R. § 2.20(c), providing notice to the IBIA, the deciding Regional Director, the appellant, and interested parties within 15 days of my receipt of a copy of the notice of appeal, after which the IBIA will transfer the appeal to my office.

In order to assist with implementing this policy, Regional Directors should notify my office when their Regional Office:

1. receives a fee-to-trust application to acquire at least 200 acres of land in trust and deems that application to be complete and ready for review; and
2. issues a decision to acquire at least 200 acres of land in trust; and
3. receives any notice that the Regional Director's decision to acquire more than 200 of acres of land in trust has been appealed to the IBIA.

Notifications should be addressed to: Kevin Washburn, Assistant Secretary-Indian Affairs
cc: Elizabeth Appel
1849 C Street, NW
MS-4141-MIB
Washington, DC 20240

All notifications must also be emailed to: F2Tnotice@bia.gov
