



IN REPLY REFER TO:

United States Department of the Interior

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

DEC - 2 2010

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 San Manuel Band of Mission Indians.

Said notice is issued pursuant to the Code of Federal Regulations, Title 25, INDIANS, and Parts 151.10 and 151.11. 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



TAKE PRIDE
IN AMERICA 



IN REPLY REFER TO:

United States Department of the Interior

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

DEC - 2 2010

Notice of 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 San Manuel Band of Mission Indians 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:

San Manuel Band of Mission Indians

Legal Land Description:

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

All that certain real property situated in the County of San Bernardino, State of California, described as follows:

The land referred to in this report is situated in the State of California, County of San Bernardino and is described as follows:

Parcel 1:

That portion of the East half of the Northeast quarter of Section 29, Township 1 North, Range 3 West, San Bernardino Base and Meridian, in the City of San Bernardino, County of San Bernardino, State of California, bounded on the South by Tract No. 9621, as recorded in Book 138, Pages 19 and 20 of Maps, Records of said County, and further bounded on the South by that property conveyed to Harold E. Hooker and Ruby L. Hooker by deed recorded on January 5, 1972 in Book 7829, Pages 456 through 458, inclusive and on November 2, 1977 in Book 9297, Pages 158 and 159, respectively, Official Records of said County and further bounded on the South by Holly Circle Drive as conveyed to the City of San Bernardino by document recorded March 13, 1970 in Book 7405, Pages 336 and 337, Official Records of said County.

Together with all that portion of Parcels 15, 18 and Lot E of Amending Map of Parcel Map NO. 11819, in the City of San Bernardino, County of San Bernardino, State of California, as per map recorded in Book 150, Pages 58 to 65 inclusive of Parcel Maps, in the Parcel Maps, in the Office of the county recorder of said County, described as follows:

Beginning at a point on the East line of said Parcel Map No. 11819, said point being North 00°37'24" East, 220.00 feet from the Southeast corner of said Parcel Map No. 11819;
Thence North 07°05'26" West, 700.31 feet;
Thence North 07°04'22" East, 231.46 feet;
Thence North 30°09'44" East, 137.93 feet to a point on the East line of said Parcel Map, said point being North 00°37'24" East, 1043.97 feet from the Point of Beginning;
Thence South 00°37'24" West, 1,043.97 feet to the Point of Beginning.

Excepting therefrom any portion lying within Orange Avenue.

Above said legal description is pursuant to Certificate of Compliance Lot Line Adjustment No. 93-01 recorded June 29, 1993 as Instrument No. 93-276763 of Official Records.

Parcel 2:

The Southwest quarter of the Southwest quarter of Section 21, Township 1 North, Range 3 West, San Bernardino Base and Meridian, in the City of San Bernardino, County of San Bernardino, State of California, according to the Official Plat of said land filed in District Land Office on July 20, 1896.

**Assessors Parcel Number: 0285-181-27-0-000; 0285-201-42-0-000; 0285-201-46-0-000
0285-141-12-0-000; 0285-971-29-0-000**

The above-mentioned parcels contain 93 acres, more or less.

Subject acquisition is contiguous to exterior boundaries of the San Manuel Reservation. Please refer to the attached map depicting the general location of subject parcels and Exhibit "A" for legal description.

Proposed Land Use/ Site Location:

The land acquisition is for 93 acres, more or less, consisting of five parcels located in San Bernardino County, California. Subject acquisition is contiguous to the San Manuel Reservation. The proposed land use is for tribal housing. The parcels are currently unimproved. All parcels are directly adjacent to the eastern and southeastern boundary of the reservation and will provide essential flat land upon which the Tribe can construct housing and a restricted access road.

Current Use/Taxes and Zoning:

The 93-acre property is currently undeveloped.

The property's 2009-2010 real property taxes were \$102,585.06.

Zoning for subject parcel is R-L, which is low density residential.

Existing Easements/Encumbrances:

Please refer to Exhibit "A".

Supplemental Data:

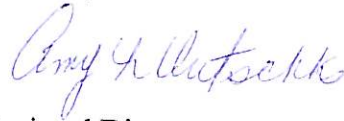
As indicated above, the purpose for seeking your comments regarding the proposed trust land acquisition is to obtain sufficient data that would enable an analysis of the potential impact on local/state government, which may result from the removal of the subject property from the tax roll and local jurisdiction.

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.

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 Arvada Wolfin, Regional Realty Officer, at (916) 978-6069.

Sincerely,

A handwritten signature in blue ink that reads "Amy K. Mutschke". The signature is written in a cursive style.

Regional Director

Attachments

Site Map
Exhibit "A"

DISTRIBUTION LIST

cc: BY CERTIFIED MAIL RETURN RECEIPT TO:

California State Clearinghouse (ten copies) - 7010 1670 0001 7431 4145
Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Sara J. Drake, Deputy Attorney General – 7010 1670 0001 7431 4152
State of California
Department of Justice
P.O. Box 944255
Sacramento, California 94244-2550

Andrea Hoch, Legal Affairs Secretary – 7010 1670 0001 7431 4169
Office of the Governor of California
State Capitol Building
Sacramento, California 95814

Neil Derry, Third District – 7010 1670 0001 7431 4176
San Bernardino Board of Supervisors
385 North Arrowhead Avenue, 5th Floor
San Bernardino, California 92415

Honorable Wilmer Carter – 7010 1670 0001 7431 4183
California State Assembly
62nd Assembly District
P.O. Box 942849, Rm. 2136
Sacramento, California 94249-0001

Dena Smith, Director – 7010 1670 0001 7431 4633
San Bernardino Land Use Services Department
385 North Arrowhead Avenue, 1st Floor
San Bernardino, California 92415

San Bernardino County Treasure/Tax Collector – 7010 1670 0001 7431 4640
172 West 3rd Street, #1
San Bernardino, California 94515

San Bernardino County Consolidated Fire Dept. – 7010 1670 0001 7431 4473
Fire Warden's Office
200 East 3rd Street
San Bernardino, California 92410

San Bernardino Building & Safety Division – 7010 1670 0001 7431 4480
385 North Arrowhead Avenue
San Bernardino, California 92415

San Bernardino Architecture & Engineering Dept. – 7010 1670 0001 7431 4497
385 North Arrowhead Avenue
San Bernardino, California 92415

Honorable Patrick J. Morris – 7010 1670 0001 7431 4503
Mayor of the City of San Bernardino
300 North “D” Street, 6th Floor
San Bernardino, California 92418-0001

Honorable Penny Lilburn – 7010 1670 0001 7431 4510
Mayor of the City of Highland
27215 Base Line
Highland, California 92346

Cal Fire, San Bernardino Unit – 7010-1670 0001 7431 4527
3800 North Sierra Way
San Bernardino, CA 92405

San Bernardino County Sheriff’s Department – 7010 1670 0001 7431 4535
655 East Third Street
San Bernardino, CA 92415

Chief of Police – 7010 1670 0001 7431 4541
San Bernardino Police Department
710 North D Street
San Bernardino, CA 92402-1559

County of San Bernardino – 7010 1670 0001 7431 4558
Department of Public Works, Land Development Division
825 E. Third Street
San Bernardino, CA 92415-0835

Robert Martin, Chairman – 7010 1670 0001 7431 4565
Morongo Band of Mission Indians
12700 Pumarra Road
Banning, CA 92220

Scott Cozart, Chairman – 7010 1670 0001 7431 4572
Soboba Band of Luiseno Indians
23906 Soboba Road
San Jacinto, CA 92581

Richard M. Milanovich, Chairman – 7010 1670 0001 7431 4589
Agua Caliente Band of Cahuilla Indians
5401 Dinah Shore Drive
Palm Springs, CA 92264

Lurther Salgado Sr., Chairman – 7010 1670 0001 7431 4596
Cahuilla Band of Indians
52701 Hwy 371
P.O. Box 391760
Anza, CA 92539

Joseph Hamilton, Chairman – 7010 1670 0001 7431 4602
Ramona Band of Cahuilla
56310 Highway 371, Suite B
Anza, CA 92539

Mark Macarro, Chairman - 7010 1670 0001 7431 4619
Pechanga Band of Luiseno Indians
P.O. Box 1477
Temecula, CA 92593

Regular Mail: Superintendent, Southern California Agency
1451 Research Park Drive, Suite 100
Riverside, CA 92507

SITE MAP

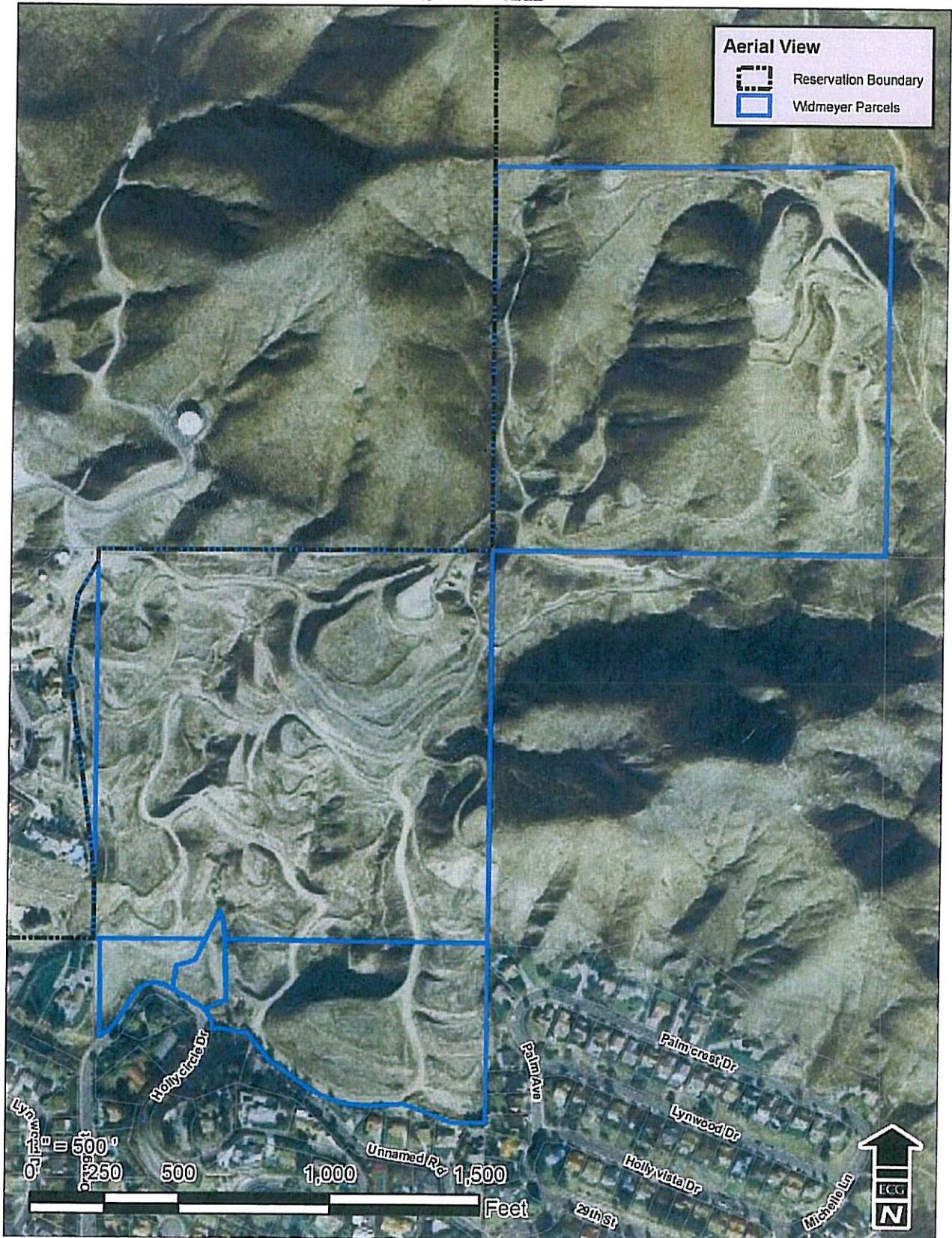


EXHIBIT A

- A. Property taxes, including general and special taxes, personal property taxes, if any, and any assessments collected with taxes, to be levied for the fiscal year 2007 – 2008 which are a lien not yet payable.
- B. Supplemental or escaped assessments of property taxes, if any, assessed pursuant to the Revenue and Taxation Code of the State of California.
 - 1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.

THE FOLLOWING MATTERS AFFECT PARCEL 1:

- 2. Water rights, claims or title to water, whether or not shown by the public records.
- 3. An easement in favor of the public over any existing roads lying within said land.
- 4. An easement for the purpose shown below and rights incidental thereto as set forth in a document

Purpose: paved water ditch, ingress, egress and incidental purposes
Recorded: May 10, 1884 in Book 36, Page 415, of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Purpose: paved water ditch
Recorded: April 19, 1884 in Book 36, Page 572 ,of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Purpose: water ditch
Recorded: March 29, 1887 in Book 55, Page 439, of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Purpose: ditches, canals or aqueducts
Recorded: October 25, 1890 in Book 119, Page 311, of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Purpose: pipelines
Recorded: in Book 150, Page(s) 268, of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Purpose: pipe lines, ditches, flumes and conduits
Recorded: June 4, 1910 in Book 460, Page 289, of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Granted to: Dennis Johnson, et ux
Purpose: ingress and egress and incidental purposes
Recorded: February 7, 1966 in Book 6566, Page 46 of Official Records
Affects: said land more particularly described therein.

11. A document subject to all the terms, provisions and conditions therein contained.

Entitled: Deed and Agreement
Dated: August 26, 1976
By and between: Jack R. Widmeyer and The East San Bernardino County Water District
Recorded: September 23, 1976 in Book 9018 Page 817 of Official Records

Reference is made to said document for full particulars.

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

Granted to: Southern California Edison Company, a Corporation
Purpose: overhead and underground electrical supply systems and communication systems and incidental purposes
Recorded: June 1, 1979 in Book 9698, Page 2206 of Official Records
Affects: said land more particularly described therein.

13. Any boundary discrepancies, rights or claims which may exist or arise as disclosed by a Record of Survey

Recorded in Book 98, Page 45, Records of Survey

14. A document subject to all the terms, provisions and conditions therein contained.

Entitled: Conveyance of Pipeline Easement
Dated: September 6, 2005
By and between: Jack R. Widmeyer, Trustee of The Jack R. Widmeyer, Separate Property Revocable Trust established December 7, 1991 in Book favor East Valley Water District, a County Water District, its successors and assigns
Recorded: October 5, 2005 as Instrument No. 2005-0748185 of Official Records

Reference is made to said document for full particulars.

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

Granted to: East Valley Water District, a County Water District
Purpose: pipeline or pipelines
Recorded: October 5, 2005 as Instrument No. 2005-0748185 of Official Records
Affects: said land more particularly described therein.

16. The matters contained in a document entitled "Irrevocable Offer of Dedication of Water System" recorded November 10, 2005 as Instrument No. 2005-0848371 of Official Records.

Reference is made to said document for full particulars.

17. Any boundary discrepancies, rights or claims which may exist or arise as disclosed by a Record of Survey No. 05-140

Recorded December 9, 2005, in Book 125, Page 147 of Records of Survey

THE FOLLOWING MATTERS AFFECT PARCEL 2:

18. Water rights, claims or title to water, whether or not shown by the public records.
19. An easement in favor of the public over any existing roads lying within said land.
20. Any adverse interest or claim of right or title based upon the assertion that the boundaries of the Southwest ¼ of Section 21, Township 1 North, Range 3 West, San Bernardino Base and Meridian, according to the Official Plat of said land filed in the District Land Office July 20, 1896 are not identical with the boundaries of the corresponding Quarter of said Section 21, according to the Official Plats filed in the District Land Office October 15, 1883 and November 17, 1931, respectively.

Any boundary discrepancies, rights or claims which may exist or arise as disclosed by a Record of Survey

Recorded: in Book 90, Page 67, of Records of Survey, Office of the County Recorder of San Bernardino County

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

Purpose: pipe lines

Recorded: April 10, 1897 in Book 235, Page 315, of Deeds

The exact location and/or extent of said easement is not disclosed in the public records.

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

Purpose: pipe lines and incidental purposes

Recorded: in Book 6132, page 201, of Official Records

The exact location and/or extent of said easement is not disclosed in the public records.

23. The terms ,covenants, provisions of that certain Agreement, executed by and between East San Bernardino County Water District and Stubblefield Construction Company, et al, recorded February 13, 1970 in Book 7388, Page 301, of Official Records, and the effect of any failure to comply with same.

24. Any rights, interest, or claims which may exist or arise by reason of the following facts shown on a survey plat entitled ALTA/ACSM Land Title Survey, dated October 25, 2005, WO No. 05-104, by Hernandez Kroone and Associates, Inc.:

- a. A wall encroaches onto the Southeasterly boundary line;
- b. A chain link fence encroaches onto the Southerly and Westerly property lines;
- c. The fact that a head wall with 3 inch pipe, a possible mine, a water tank, bollards and manholes exist on the property;
- d. The fact that numerous roads, dirt pad and drainage culverts exist on said land

TAX INFORMATION

Property taxes, including general and special taxes, personal property taxes, if any, and any assessments collected with taxes, for the fiscal year shown below, are paid. For proration purposes the amounts are:

Fiscal year	2009 - 2010
1st Installment:	\$19,305.62
2nd Installment:	\$19,305.59
Exemption:	\$-0-
Code Area:	007-019
Assessment No.:	0285-181-27-0-000

Said matter affects a portion of Parcel 1

Property taxes, including general and special taxes, personal property taxes, if any, and any assessments collected with taxes, for the fiscal year shown below, are paid. For proration purposes the amounts are:

Fiscal year	2009 - 2010
1st Installment:	\$370.60
2nd Installment:	\$370.59
Exemption:	\$-0-
Code Area:	007-022
Assessment No.:	0285-201-42-0-000

Said matter affects a portion of Parcel 1

Property taxes, including general and special taxes, personal property taxes, if any, and any assessments collected with taxes, for the fiscal year shown below, are paid. For proration purposes the amounts are:

Fiscal year	2009 - 2010
1st Installment:	\$11,771.97
2nd Installment:	\$11,771.95
Exemption:	\$-0-
Code Area:	007-022
Assessment No.:	0285-201-46-0-000

Said matter affects a portion of Parcel 1

Property taxes, including general and special taxes, personal property taxes, if any, and any assessments collected with taxes, for the fiscal year shown below, are paid. For proration purposes the amounts are:

Fiscal year	2009 - 2010
1st Installment:	\$19,305.62
2nd Installment:	\$19,305.59
Exemption:	\$-0-
Code Area:	007-019
Assessment No.:	0285-141-12-0-000

Said matter affects Parcel 2

Property taxes, including general and special taxes, personal property taxes, if any, and any assessments collected with taxes, for the fiscal year shown below, are paid. For proration purposes the amounts are:

Fiscal year	2009 - 2010
1st Installment:	\$538.78
2nd Installment:	\$538.75
Exemption:	\$-0-
Code Area:	007-019
Assessment No.:	0285-971-29-0-000

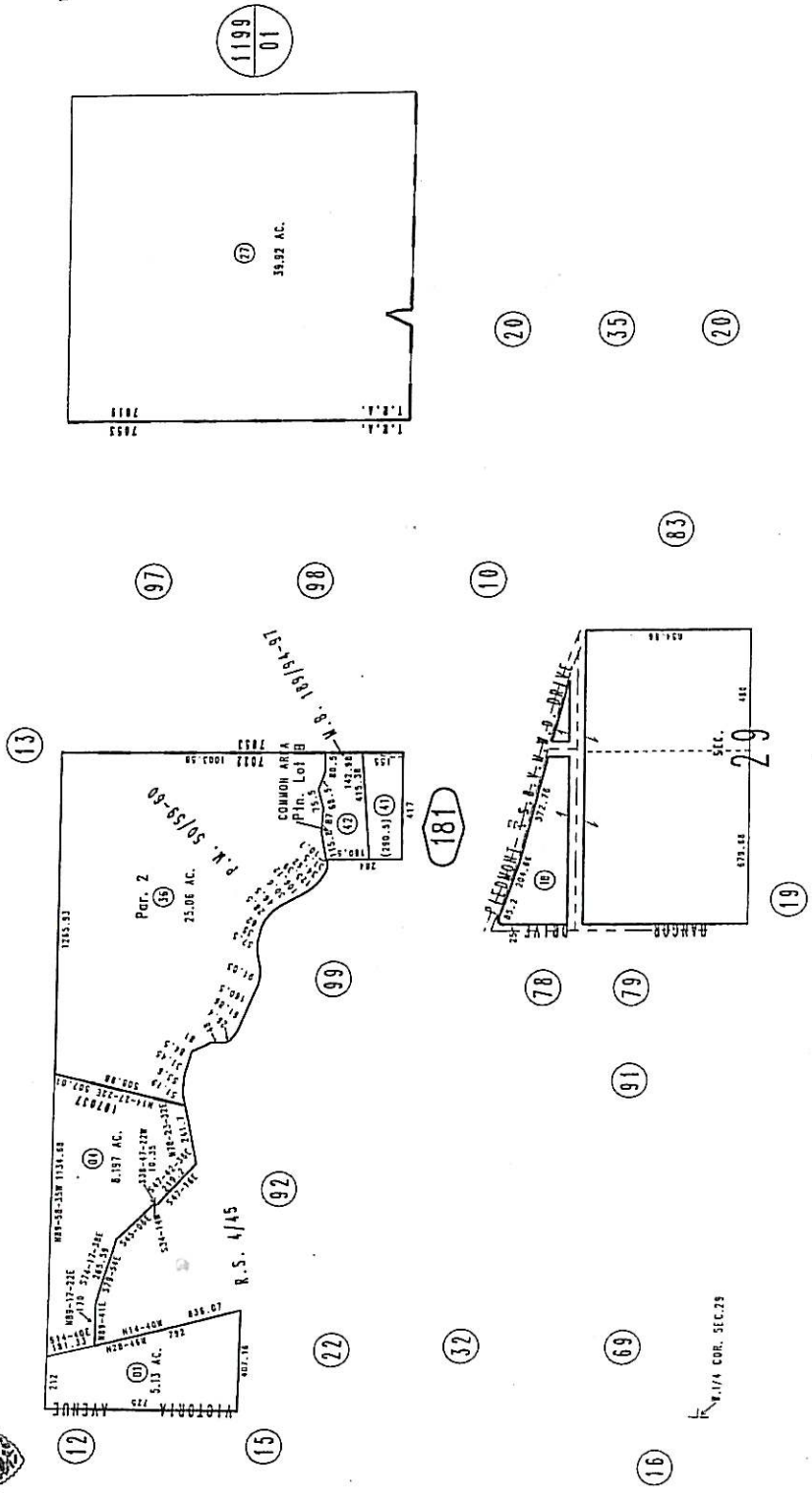
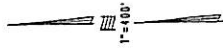
Said matter affects a portion of Parcel 1

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



Ptn. N.1/2, Sec.29, T.1N.,R.3W., S.B.B.&M.

City of San Bernardino 0285-18
San Bernardino Unified
Tax Rate Area
107037,7019,7053,7022



MAY 05 2005

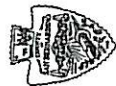
REVISED

Assessor's Map
Book 0285 Page 18
San Bernardino County

Pln. Tract No. 12949, M.B. 189/94-97
Pln. Parcel Map No. 5401, P.M. 50/59-60

December 2004

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



Ptn. E.1/2, Sec.29, T.1N.,R.3W., S.B.B.&M.

City of San Bernardino 0285 - 20
Tax Rate Area
7022

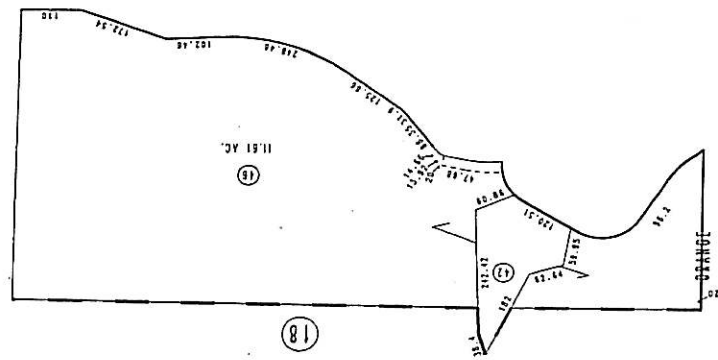
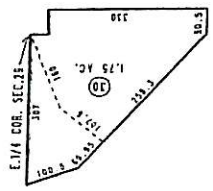


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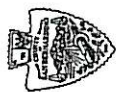
MAY 05 2005

REVISED

Assessor's Map
Book 0285 Page 20
San Bernardino County

December 2004 Ptn. Mountain Nursery Tract, Map No. 2, U.B. 7/45

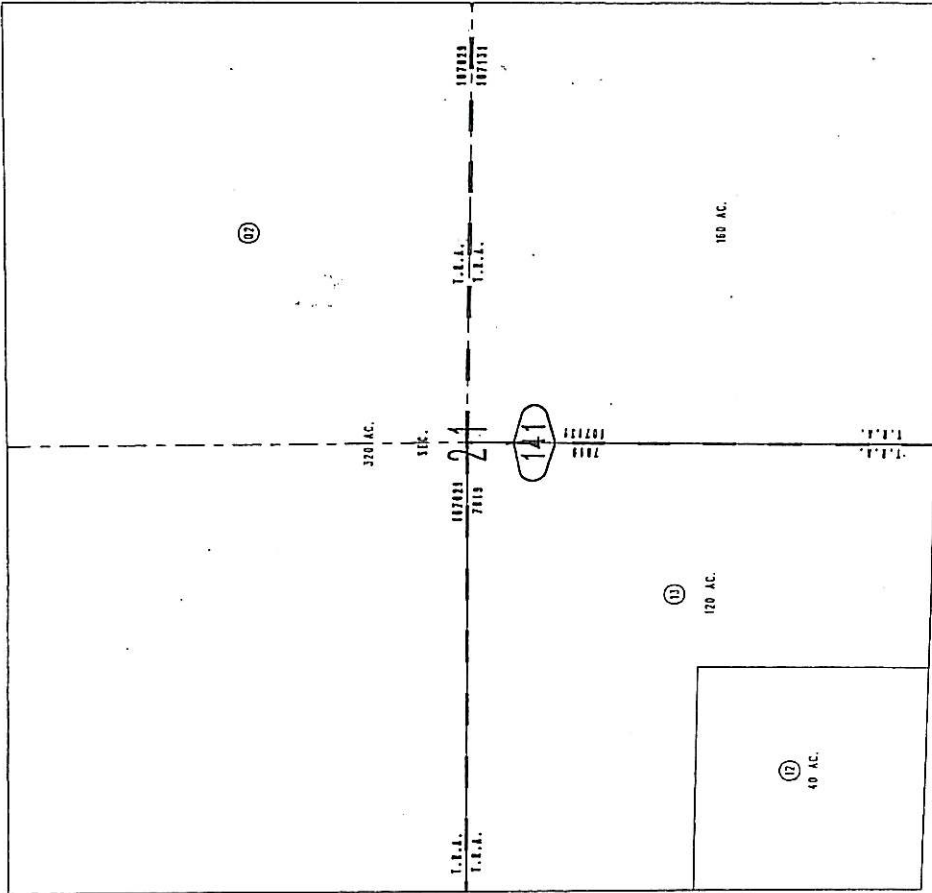
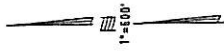
THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



Sec. 21, T. 1N., R. 3W., S.B.B. & M.

City Of San Bernardino
San Bernardino Unified
Tax Rate Area
107029, 7019, 107131

0285 - 14



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Assessor's Map
Book 0285 Page 14
San Bernardino County

MAY 05 2005

REVISED

December 2004

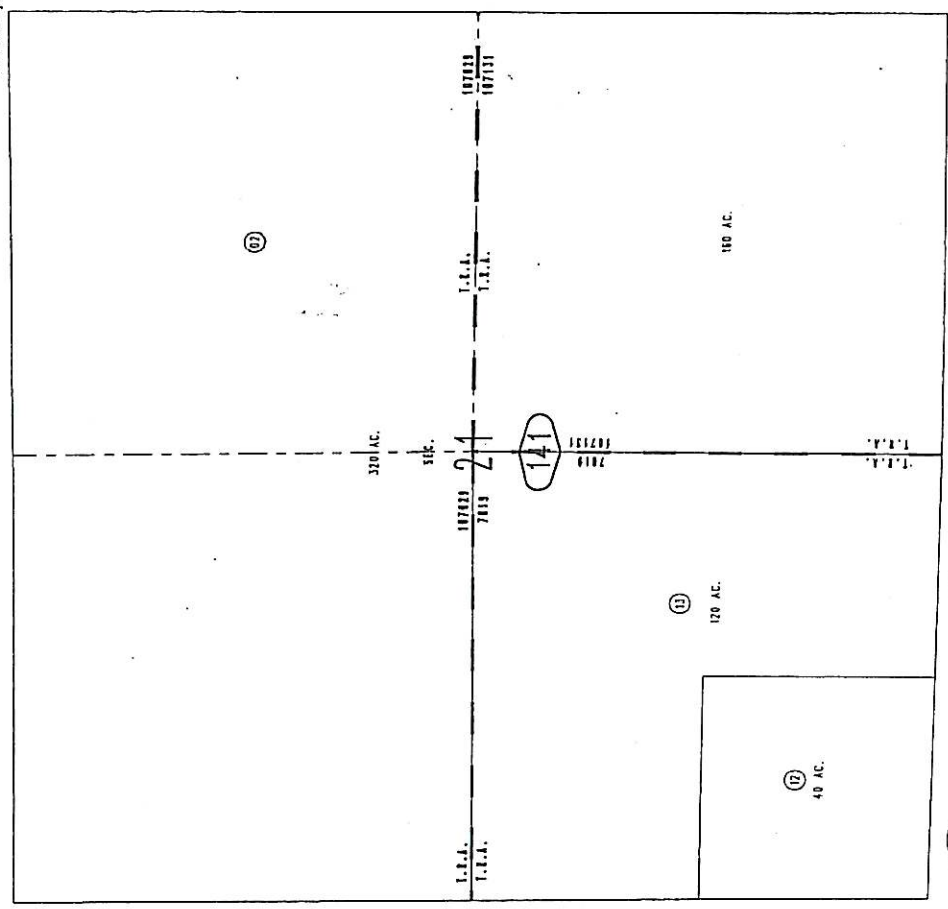
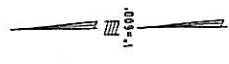
THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.



Sec. 21, T. 1N., R. 3W., S. B. B. & M.

City of San Bernardino
San Bernardino Unified
Tax Rate Area
107029, 7019, 107131

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MAY 05 2005

REVISED

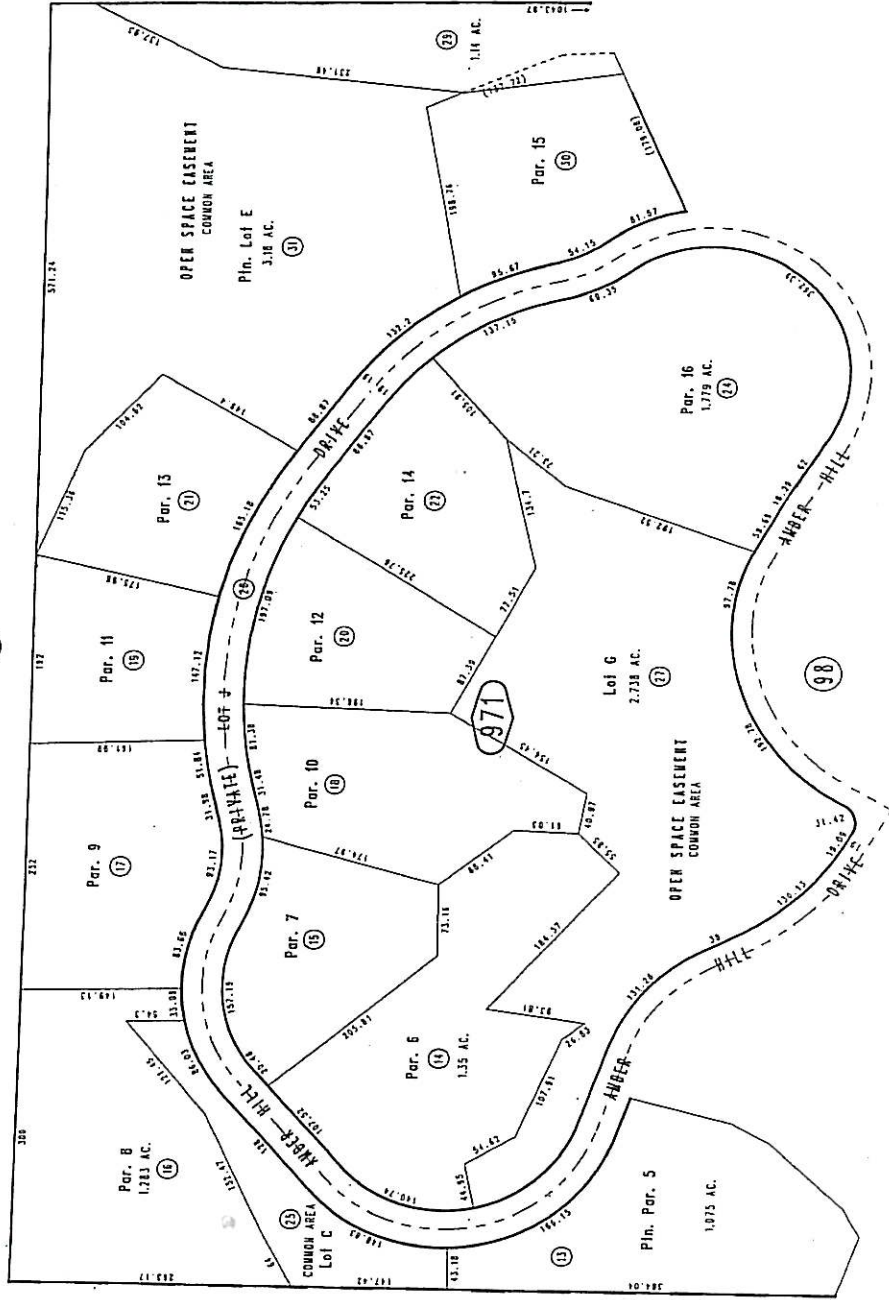
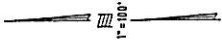
Assessor's Map
Book 0285 Page 14
San Bernardino County

December 2004

THIS MAP IS FOR THE PURPOSE
OF AD VALOREM TAXATION ONLY.

Pin. Parcel Map No. 11819, P.M. 130/100-107
Amending Map, P.M. 150/58-65

City of San Bernardino 0285 - 97
Tax Rate Area
7019



MAY 05 2005

REVISED

Assessor's Map
Book 0285 Page 97
San Bernardino County

Pin. N.E.1/4, Sec. 29
T.1N., R.3W.

December 2004

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, 455, 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 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

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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

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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

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 MLB, 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

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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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