

ML 5401



IN REPLY REFER TO:

United States Department of the Interior

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

NOTICE OF DECISION

CERTIFIED MAIL-RETURN RECEIPT REQUESTED – 7002 3150 0005 2284 9653

OCT 27 2003

Mr. Vincent Armenta, Chairperson
Santa Ynez Band of Mission Indians
P.O. Box 517
Santa Ynez, California 93460

Dear Mr. Armenta:

This is notice of our decision on your application to have the below described real property that is located contiguous to the exterior boundaries of the Reservation accepted by the United States of America in trust for the Santa Ynez Band of Mission Indians of California.

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

APN: 141-450-06 "Davidge" parcel:

THOSE PORTIONS OF LOTS 7 AND 10 IN TRACT 2, AND LOTS 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 AND 35 OF SANJA COTA TRACT OF THE SUBDIVISION OF THE RANCHO CANADA DE LOS PINOS, OR COLLEGE RANCH, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDING IN RACK NO. 3 MAPS, NO. 4, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

COMMENCING AT A POINT IN THE CENTER LINE OF CUESTA ROAD, AT THE NORTHEAST CORNER OF LOT 11 OF SAID TRACT 2;

THENCE ALONG THE SOUTHERLY LINE OF LOT 11 NORTH 89° 42' WEST 200.26 FEET;

THENCE SOUTH 0° 15' EAST 753.3 FEET TO A ½ INCH PIPE SET AT THE MOST SOUTHERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED TO EDWARD L. SARNOFF, ET AL., RECORDED OCTOBER 19, 1964 AS INSTRUMENT NO. 44419 IN BOOK 2074, PAGE 1278 OF OFFICIAL RECORDS, FROM WHICH A ½ INCH PIPE BEARS NORTH 63° 26' 54" EAST 57.03 FEET;

THENCE ALONG THE SOUTHERLY AND EASTERLY LINE OF SAID SARNOFF TRACT AS FOLLOWS:

SYN 3970

1ST, NORTH 63° 26' 54" EAST 317.43 FEET TO A ½ INCH PIPE AND BEING THE TRUE POINT OF BEGINNING;
2ND, NORTH 72° 01' 54" EAST 186.04 FEET TO A ½ INCH PIPE;
3RD, NORTH 42° 50' 24" EAST 117.48 FEET TO A ½ INCH PIPE;
4TH, NORTH 18° 28' 24" EAST 154.39 FEET TO A ½ INCH PIPE;
5TH, NORTH 3° 20' 06" EAST 146.53 FEET TO A ½ INCH PIPE;
6TH, NORTH 28° 58' 54" EAST 190.99 FEET TO A ½ INCH PIPE;
7TH, NORTH 12° 01' 06" WEST 137.13 FEET TO A ½ INCH PIPE;
8TH, NORTH 67° 26' 54" EAST 174.38 FEET TO A ½ INCH PIPE;
9TH, NORTH 56° 08' 24" EAST 164.93 FEET TO A ½ INCH PIPE;
10TH, NORTH 38° 37' 24" EAST 200.15 FEET TO A ½ INCH PIPE;
11TH, NORTH 2° 11' 24" EAST 96.64 FEET TO A ½ INCH PIPE;
12TH, NORTH 31° 32' 24" EAST 217.46 FEET TO A ½ INCH PIPE;
13TH, NORTH 4° 31' 36" WEST 202.16 FEET TO A ½ INCH PIPE;
14TH, NORTH 33° 30' 54" EAST 120.86 FEET TO A ½ INCH PIPE; AND
15TH, NORTH 32° 58' 36" WEST 213.35 FEET TO A ½ INCH PIPE SET AT THE NORTHEASTERLY CORNER OF SAID SARNOFF TRACT AND IN THE SOUTHEASTERLY LINE OF THE STATE HIGHWAY DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA RECORDED MAY 10, 1955 AS INSTRUMENT NO 8359 IN BOOK 1313, PAGE 563 OF OFFICIAL RECORDS; THENCE

16TH, ALONG THE SOUTHEASTERLY LINE OF SAID STATE HIGHWAY NORTH 64° 41' 23" EAST 321.72 FEET TO THE MOST WESTERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED TO WAYNE H. WILSON, SR., ET UX., RECORDED OCTOBER 19, 1964 AS INSTRUMENT NO. 44409 IN BOOK 2074, PAGE 1265 OF OFFICIAL RECORDS;

THENCE ALONG THE SOUTHWESTERLY AND SOUTHEASTERLY LINES OF SAID TRACT THE FOLLOWING COURSES AND DISTANCES;

17TH, SOUTH 34° 57' 06" EAST 172.36 FEET TO A ½ INCH PIPE;
18TH, NORTH 55° 19' 24" EAST 157.23 FEET TO A ½ INCH PIPE;
19TH, NORTH 58° 41' 24" EAST 61.42 FEET TO A ½ INCH PIPE;
20TH, NORTH 23° 17' 24" EAST 112.24 FEET TO A ½ INCH PIPE;
21ST, NORTH 24° 30' 54" EAST 98.61 FEET TO ½ INCH PIPE SET AT THE MOST EASTERLY CORNER OF SAID WILSON TRACT AND A POINT IN THE SOUTHEASTERLY LINE OF SAID STATE HIGHWAY;

THENCE, 22ND, ALONG SAID LINE AS DESCRIBED IN SAID DEED TO THE STATE OF CALIFORNIA, NORTH 64° 41' 07" EAST 44.48 FEET TO A 6" X 6" CONCRETE MONUMENT;

THENCE 23RD, CONTINUING ALONG SAID LINE NORTH 47° 03' 07" EAST 155.24 FEET;

24TH, CONTINUING ALONG SAID LINE NORTH 61° 59' EAST TO INTERSECT COURSE NO. 1 OF THE SANTA YNEZ INDIAN RESERVATION, AS SHOWN ON MAP

RECORDED IN BOOK 1, PAGE 78 OF MAPS AND SURVEYS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND BEING THE EASTERLY LINE OF THE PARCEL OF LAND DESCRIBED AS TRACT 3, PARCEL TWO IN THE DEED TO BOYD B. BETTENCOURT, ET AL., RECORDED OCTOBER 6, 1955 AS INSTRUMENT NO. 17962 IN BOOK 1339, PAGE 232 OF OFFICIAL RECORDS.

THENCE, ALONG SAID COURSE NO. 1 AND THE LINE OF SAID BETTENCOURT TRACT THE FOLLOWING COURSES AND DISTANCES:

25TH, SOUTH 18° 33' EAST TO AN IRON AXLE, US MONUMENT NO. 1; THENCE 26TH, SOUTH 38° 58' WEST 105 FEET TO AN IRON AXLE US MONUMENT NO. 2; THENCE, 27TH, SOUTH 79° 08' WEST 57.8 FEET TO AN IRON AXLE; THENCE 28TH, SOUTH 37° 32' WEST 208.1 FEET TO A ¾ INCH PIPE; THENCE 29TH, SOUTH 54° 49' WEST 91.8 FEET TO AN IRON AXLE, US MONUMENT NO. 5; THENCE, 30TH, SOUTH 31° 30' WEST 187.4 FEET TO A 3 INCH PIPE FILLED WITH CEMENT, US MONUMENT NO. 6; THENCE 31ST, AT 1.135 CHAINS TO THE CENTER OF SANJA COTA CREEK AND THE BEGINNING POINT OF THE TRACT FIRST DESCRIBED IN THE DEED TO THE SECRETARY OF THE INTERIOR RECORDED IN BOOK 92, PAGE 118 OF DEEDS, RECORDS OF SAID COUNTY; THENCE

32ND, SOUTH 67° 39' WEST 178.5 FEET TO AN IRON AXLE, US MONUMENT NO. 87 ON THE WEST SIDE OF THE SANJA COTA CREEK; THENCE ALONG THE WESTSIDE OF SAID TRACT 1, DESCRIBED IN SAID DEED TO THE SECRETARY OF THE INTERIOR, BY THE FOLLOWING COURSES AND DISTANCES:

33RD, SOUTH 59° 22' WEST 89 FEET TO AN IRON AXLE, US MONUMENT NO. 88; THENCE 34TH, SOUTH 76° 02' WEST 81.8 FEET TO A ¼ INCH PIPE, US MONUMENT NO. 89 BEARS NORTH 60° 27' WEST 4.45 FEET; THENCE 35TH, NORTH 76° 54' WEST 246.5 FEET TO A 3 INCH PIPE FILLED WITH CEMENT, US MONUMENT NO. 90; THENCE 36TH, SOUTH 2° 58' EAST 276 FEET TO AN IRON AXLE, US MONUMENT NO. 91; THENCE 37TH SOUTH 3° 07' WEST 263 FEET TO A ¾ INCH PIPE, US MONUMENT NO. 92; THENCE 38TH, SOUTH 28° 20' WEST 347.8 FEET TO A SPIKE IN THE ROOT OF AN OLD SYCAMORE TREE; THENCE 39TH, SOUTH 29° 02' WEST 281.5 FEET TO AN IRON AXLE, US MONUMENT NO. 94; THENCE 40TH, NORTH 43° 22' WEST 53.6 FEET TO A 3 INCH PIPE WITH BRASS CAP, US MONUMENT NO 95; THENCE 41ST, SOUTH 37° 24' WEST 489.3 FEET TO A ¾ INCH PIPE, US MONUMENT NO. 96; THENCE 42ND, 1° 39' EAST 210.8 FEET TO AN IRON AXLE, US MONUMENT NO.97; THENCE 43RD, SOUTH 17° 31' WEST 80.7 FEET TO AN IRON AXLE, US MONUMENT NO. 98; THENCE

44TH, SOUTH 35° 21' WEST 170.3 FEET TO AN IRON AXLE, US MONUMENT NO. 99;
THENCE

45TH, SOUTH 83° 00' WEST 269.8 FEET TO A 3 INCH PIPE FILLED WITH CEMENT, US
MONUMENT NO. 100; THENCE NORTH 29° 01' 35" EAST, 61.83 FEET TO THE TRUE
POINT OF BEGINNING,

EXCEPTING THEREFROM ALL PORTIONS THEREOF LYING EASTERLY OF THE
CENTERLINE OF SANJA COTA CREEK, S THE SAME EXISTED ON APRIL 21, 1892.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF QUITCLAIMED TO THE
UNITED STATES OF AMERICA IN THAT CERTAIN AGREEMENT AND DEED
RECORDED JANUARY 23, 1941 AS INSTRUMENT NO. 618 IN BOOK 511, PAGE 363 OF
OFFICIAL RECORDS.

SAID PROPERTY IS A PORTION OF PARCEL "A" OF PARCEL MAP NO. 11, 185 IN THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN
BOOK 6, PAGE 94 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF
SAID COUNTY.

PARCEL TWO:

THOSE PORTIONS OF LOTS 7 AND 10 IN TRACT 2, AND LOTS 25, 26, 27, 28, 29, 30, 31,
32, 33, 34 AND 35 OF SANJA COTA TRACT OF THE SUBDIVISION OF THE RANCHO
CANDADA DE LOS PINOS, OR COLLEGE RANCH, IN THE COUNTY OF SANTA
BARBARA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED
IN RACK NO. 3, MAP NO. 4, IN THE OFFICE OF THE , DESCRIBED AS FOLLOWS
COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE CENTER LINES OF CUESTA ROAD, AT THE
NORTHEAST CORNER OF LOT 11 OF SAID TRACT 2; THENCE ALONG THE
EASTERLY LINE OF LOT 11 SOUTH 0° 18' WEST 660.00 FEET TO A ½ INCH PIPE SET
AT THE SOUTHEASTERLY CORNER OF SAID LOT 11; THENCE ALONG THE
SOUTHERLY LINE OF LOT 11 NORTH 89° 42' WEST 200.26 FEET; THENCE SOUTH 0°
15' EAST 753.3 FEET TO A ½ INCH PIPE SET AT THE MOST SOUTHERLY CORNER OF
THE TRACT OF LAND DESCRIBED IN THE DEED TO EDWARD L. SARNOFF, ET AL.,
RECORDED OCTOBER 19, 1964 AS INSTRUMENT NO. 44419 IN BOOK 2074, PAGE 1278
OF OFFICIAL RECORDS, FROM WHICH A ½ INCH PIPE BEARS NORTH 63° 26' 54"
EAST 57.03 FEET, AND BEING THE TRUE POINT OF BEGINNING; THENCE ALONG
THE SOUTHERLY AND EASTERLY LINE OF SAID SARNOFF TRACT AS FOLLOWS:

1ST, NORTH 63° 26' 54" EAST 317.43 FEET TO A ½ INCH PIPE;
2ND, NORTH 72° 01' 54" EAST 186.04 FEET TO A ½ INCH PIPE;
3RD, NORTH 42° 50' 24" EAST 117.48 FEET TO A ½ INCH PIPE;
4TH, NORTH 18° 28' 24" EAST 154.39 FEET TO A ½ INCH PIPE;
5TH, NORTH 3° 20' 06" EAST 146.53 FEET TO A ½ INCH PIPE;
6TH, NORTH 28° 58' 54" EAST 190.99 FEET TO A ½ INCH PIPE;

7TH, NORTH 12° 01' 06" WEST 137.13 FEET TO A ½ INCH PIPE;
8TH, NORTH 67° 26' 54" EAST 174.38 FEET TO A ½ INCH PIPE;
11TH, NORTH 2° 11' 24" EAST 96.64 FEET TO A ½ INCH PIPE;
12TH, NORTH 31° 32' 24" EAST 217.46 FEET TO A ½ INCH PIPE;
13TH, NORTH 4° 31' 36" WEST 202.16 FEET TO A ½ INCH PIPE;
14TH, NORTH 33° 30' 54" EAST 120.86 FEET TO A ½ INCH PIPE; AND
15TH, NORTH 32° 58' 36" WEST 213.35 FEET TO A ½ INCH PIPE SET AT THE
NORTHEASTERLY CORNER OF SAID SARNOFF TRACT AND IN THE
SOUTHEASTERLY LINE OF THE STATE HIGHWAY DESCRIBED IN THE DEED TO
THE STATE OF CALIFORNIA, RECORDED MAY 10, 1955 AS INSTRUMENT NO. 8359
IN BOOK 1313, PAGE 563 OF OFFICIAL RECORDS; THENCE
16TH, ALONG THE SOUTHEASTERLY LINE OF SAID STATE HIGHWAY NORTH 64° 41'
23" EAST 321.72 FEET TO THE MOST WESTERLY CORNER OF THE TRACT OF LAND
DESCRIBED IN THE DEED TO WAYNE H. WILSON, SR., ET UX., RECORDED
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19TH, NORTH 58° 41' 24" EAST 61.42 FEET TO A ½ INCH PIPE;
20TH, NORTH 23° 17' 24" EAST 112.24 FEET TO A ½ INCH PIPE;
21ST, NORTH 24° 30' 54" EAST 98.61 FEET TO A ½ INCH PIPE SET AT THE MOST
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SOUTHEASTERLY LINE OF SAID STATE HIGHWAY; THENCE
22ND, ALONG SAID LINE AS DESCRIBED IN SAID DEED TO THE STATE OF
CALIFORNIA NORTH 64° 41' 24" EAST 44.88 FEET TO A 6"X 6" CONCRETE
MONUMENT; THENCE
23RD, CONTINUING ALONG SIDE LINE NORTH 47° 03' 07" EAST 155.24; THENCE
24TH, CONTINUING ALONG SAID LINE NORTH 61° 59' EAST TO INTERSECT COURSE
NO. 1 OF THE SANTA YNEZ INDIAN RESERVATION, AS SHOWN ON MAP
RECORDED IN BOOK 1, PAGE 78 OF MAPS AND SURVEYS, IN THE OFFICE OF THE
COUNTY RECORDER OF SAID COUNTY, AND BEING OUT IN THE EASTERLY LINE
OF THE PARCEL OF LAND DESCRIBED AS TRACT 3, PARCEL TWO IN THE DEED TO
BOYD B. BETTENCOURT, ET AL., RECORDED OCTOBER 6, 1955 AS INSTRUMENT
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COURSE NO.1 AND THE LINE OF SAID BETTEN COURT TRACT THE FOLLOWING
COURSES AND DISTANCES:

25TH, SOUTH 18° 33' EAST TO AN IRON AXLE, US MONUMENT NO. 1; THENCE
26TH, SOUTH 38° 58' WEST 105 FEET TO AN IRON AXLE, US MONUMENT NO. 2;
THENCE
27TH, SOUTH 79° 08' WEST 57.8 FEET TO AN IRON AXLE; THENCE
28TH, SOUTH 37° 32' WEST 208.1 FEET TO A ¾ INCH PIPE; THENCE
29TH, SOUTH 54° 49 ' WEST 91.8 FEET TO AN IRON AXLE, US MONUMENT NO. 5;
THENCE

30TH, SOUTH 31° 30' WEST 187.4 FEET TO A 3 INCH PIPE FILLED WITH CEMENT, US MONUMENT NO. 6; THENCE

31ST, AT 1.135 CHAINS TO THE CENTER OF SANJA COTA CREEK AND THE BEGINNING POINT OF THE TRACT FIRST DESCRIBED IN THE DEED TO THE SECRETARY OF THE INTERIOR, RECORDED IN BOOK 92, PAGE 118 OF DEEDS, RECORDS OF SAID COUNTY; THENCE

32ND, SOUTH 67° 39' WEST 178.5 FEET TO AN IRON AXLE, US MONUMENT NO. 87 ON THE WEST SIDE OF THE SANJA COTA CREEK; THENCE ALONG THE WEST SIDE OF SAID TRACT 1, DESCRIBED IN SAID DEED TO THE SECRETARY OF THE INTERIOR, BY THE FOLLOWING COURSES AND DISTANCES;

33RD, SOUTH 59°22' WEST 89 FEET TO AN IRON AXLE US MONUMENT NO. 88; THENCE

34TH, SOUTH 76° 02' WEST 81.8 FEET TO A ¼ INCH PIPE US MONUMENT NO. 89 BEARS NORTH 60° 27' WEST 4.45 FEET; THENCE

35TH, NORTH 76° 54' WEST 246.5 FEET TO A 3 INCH PIPE FILLED WITH CEMENT, US MONUMENT NO. 90; THENCE

36TH, SOUTH 2° 58' EAST 276 FEET TO AN IRON AXLE US MONUMENT NO. 91; THENCE

37TH, SOUTH 3° 07' WEST 263 FEET TO A ¾ INCH PIPE, US MONUMENT NO. 92; THENCE

38TH, SOUTH 28° 20' WEST 347.8 FEET TO A SPIKE IN THE ROOT OF AN OLD SYCAMORE TREE;

THENCE

39TH, SOUTH 29 ° 02' WEST 281.5 FEET TO AN IRON AXLE, US MONUMENT NO. 94; THENCE

40TH, NORTH 43° 22' WEST 53.6 FEET TO A 3 INCH PIPE WITH BRASS CAP, US MONUMENT NO. 95; THENCE

41ST, SOUTH 37° 24' WEST 489.3 FEET TO A ¾ INCH PIPE, US MONUMENT NO. 96; THENCE

42ND, SOUTH 1° 39' EAST 210.6 FEET TO AN IRON AXLE, US MONUMENT NO. 97; THENCE

43RD, SOUTH 17° 31' WEST 80.7 FEET TO AN IRON AXLE, US MONUMENT NO. 98; THENCE

44TH, SOUTH 35° 21' WEST 170.3 FEET TO AN IRON AXLE, US MONUMENT NO. 99; THENCE

45TH, SOUTH 83° 00' WEST 269.8 FEET TO A 3 INCH PIPE FILLED WITH CEMENT, US MONUMENT NO. 100; THENCE

46TH, SOUTH 3° 13' WEST 472.7 FEET TO AN IRON AXLE, US MONUMENT NO. 101; THENCE

47TH, SOUTH 23° 29' WEST 134.9 FEET TO AN IRON AXLE, US MONUMENT NO. 102; THENCE

48TH, SOUTH 13° 54' EAST 58 FEET TO A POINT IN THE EASTERLY PROLONGATION OF THE SOUTH LINE OF LOT 7 OF SAID TRACT 2 OF THE COLLEGE RANCH, AT THE NORTHEASTERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED TO ARCHIE M. HUNT, RECORDED SEPTEMBER 18, 1936 AS INSTRUMENT NO. 7322 IN

BOOK 363, PAGE 337 OF OFFICIAL RECORDS; THENCE ALONG THE EASTERLY AND SOUTHERLY LINES OF SAID TRACT AS FOLLOWS:

49TH, SOUTH 13° 54' EAST 146.6 FEET;

50TH, SOUTH 1° 16' EAST 69.5 FEET;

51ST, SOUTH 64° 19' WEST 100 FEET TO THE MOST EASTERLY CORNER OF THE TRACT OF LAND DESCRIBED IN THE DEED TO SUSAN B. DAVIDGE, RECORDED DECEMBER 20, 1965 AS INSTRUMENT NO. 44861 IN BOOK 2133, PAGE 405 OF OFFICIAL RECORDS; THENCE

52ND, ALONG THE NORTHEASTERLY LINE OF SAID DAVIDGE TRACT AND THE SOUTHWESTERLY LINE OF THE LAST MENTIONED HUNT TRACT NORTH 26° 11' 56" EAST 284.34 FEET TO THE NORTHEASTERLY CORNER OF SAID DAVIDGE TRACT AND THE SOUTHERLY LINE OF LOT 7 IN SAID TRACT 2; THENCE

53RD, NORTH 0° 15' WEST 562.06 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL PORTIONS THEREOF LYING EAST OF THE CENTERLINE OF SANJA COTA CREEK, AS THE SAME EXISTED ON APRIL 21, 1892.

ALSO EXCEPTING THEREFROM THOSE PORTIONS THEREOF QUITCLAIMED TO THE UNITED STATES OF AMERICA IN THAT CERTAIN AGREEMENT AND DEED DATED MAY 26, 1937 AND RECORDED IN BOOK 511, PAGE 363 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ANY PORTION THEREOF LYING WITHIN PARCEL ONE DESCRIBED HEREIN.

APN: 141-450-07 "Walker" parcel:

PARCEL B OF PARCEL MAP NO. 11185, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON MAP FILED IN BOOK 6, PAGE 94 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

The above-described parcels of land are commonly referred to as the "Walker" and "Davidge" properties and consist of a combined total of 12.36 acres, more or less.

Federal Law authorizes the Secretary of the Interior, or his authorized representative, to acquire title on behalf of Indian tribes. In this particular instance, the authorizing Act of Congress is the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 984; 25 U.S.C. 465). The applicable regulations are set forth in the Code of Federal Regulations, Title 25, INDIANS, Part 151, as amended. The proposed land acquisition is necessary for the Band to exercise governmental jurisdiction by consolidating the land, thus further enhancing tribal self-determination.

On June 2, 2003, by certified mail, return receipt requested, we issued notice of, and sought comments regarding the proposed fee-to-trust application from: California State Clearinghouse, Office of Planning and Research; Honorable Gray Davis, Office of the Governor; Mr. D. Robert Shuman, Deputy Legal Affairs, State of California; Honorable Barbara Boxer; Honorable Diane Feinstein; Mr. James Peterson, Office of U.S. Senator Feinstein; Honorable Ed Andrisek, City of Solvang; Honorable Harriet Miller, Santa Barbara City Hall; Honorable Lois Capps, U.S. House of Representatives; Honorable Neil Jones, City of Buelton; Honorable Gail Marshall, Santa Barbara; Ms. Sara J. Drake, Deputy Attorney General,

State of California; Mr. William F. Brown, Jr., Lompoc Police Department; Chief Warner McGrew, City of Santa Barbara Fire Department; Mr. Camerino Sanchez, Santa Barbara Police Department; Lieutenant Mal Parr, Sheriff's Department; Mr. Phil Demery, County of Santa Barbara Public Works; Ms. Beth Hannon, Santa Barbara Planning Department; Ms. Joni Gray, Santa Barbara County Board of Supervisors; Ms. Bonnie A. Ottoman, Santa Ynez Community; Mr. Kenneth Pettit, Santa Barbara County Assessor's Office; Ms. Brenda Tomaras, California Indian Legal Services; Ms. Maryann Martin, Augustine Band of Cahuilla Mission Indians; Mr. Clifford M. LaChappa, Sr., Barona Group of Capitan Grande Band of Mission Indians; Ms. Eugenia Nogales, Cahuilla Band of Mission Indians; Mr. Ralph Goff, Campo Band of Diegueno Mission Indians; Mr. Harlan Pinto, Jr., Ewiiapaayp Band of Kumeyaay Indians; Ms. Rebecca Osuna, Inaja & Cosmit; Mr. Kenneth Meza, Jr., Jamul Indian Village; Ms. Wendy Schlater, La Jolla Band of Luiseno Indians; Ms. Gwendolyn Parada, La Posta Band of Diegueno Mission Indians; Ms. Catherine Saubel, Los Coyotes Band of Cahuilla Mission Indians; Ms. Charlene Siford, Mesa Grande Band of Diegueno Mission Indians; Mr. Maurice Lyons, Morongo Band of Cahuilla Indians; Mr. Robert Smith, Pala Band of Luiseno Mission Indians; Mr. Christobal C. Devers, Pauma & Yuima; Mr. Mark Macarro, Pechanga Band of Mission Indians; Mr. Manuel Hamilton, Ramona Band of Cahuilla Mission Indians; Mr. John Currier, Rincon Band of Luiseno Mission Indians; Mr. Deron Marquez, San Manuel Band of Serrano Mission Indians; Mr. Allen Lawson, San Pasqual Band of Diegueno Mission Indians; Ms. Christina Arzate, Santa Rosa Band of Cahuilla Mission Indians; Mr. Vincent Armenta, Santa Ynez Band of Chumash Mission Indians; Mr. Johnny Hernandez, Jr., Santa Ysabel Band of Diegueno Mission Indians; Mr. Robert Salgado, Soboba Band of Luiseno Indians; Mr. Daniel Tucker, Sycuan Band of Diegueno Mission Indians; Mr. Raymond Torres, Torres-Martinez Desert Cahuilla Indians; Mr. Dean Mike, Twenty-nine Palms Band of Mission Indians; Mr. Anthony Pico, Viejas Group of Capitan Grand Band of Mission Indians; Mr. Charles Jackson, Santa Ynez Valley Concerned Citizens; Ms. Marlene Demery, City Manager of Solvang; Mr. R. MacDonald; Ms. Chantel Saipe, Tribal Liaison, County of San Diego; Bureau of Indian Affairs, Pacific Region.

We received 11 letters of support from the California State Legislature and seven letters of support from the California State Senate, as well as several letters of support from the local community. No local governmental entity has expressed any opposition to the proposed action.

Pursuant to CFR 151.10, the following factors were considered in formulating our decision: (1) need of the tribe for additional land; (2) the purposes for which the land will be used; (3) impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls; (4) jurisdictional problems and potential conflicts of land use which may arise; (5) whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of land in trust status; and (6) whether or not contaminants or hazardous substances may be present on the property. Accordingly, the following analysis of the application is provided.

Factor 1 Need for additional land

The Santa Ynez Reservation is divided in half by the subject strip of land, which is not part of the Reservation. This acquisition will join the North half and the South half of the Reservation together and bring continuity to the Reservation without the potential for the land to be acquired by a non-member of the Tribe. The Tribe's Reservation is less than 100 acres. A large portion of the Reservation cannot be developed due to the topography. It is our determination that the Santa Ynez Band of Mission Indians has an established need for additional land in order to facilitate tribal self-determination, which falls within the policy as set forth by the Secretary of the Interior.

Factor 2 - Proposed Land Use.

The County has proposed that a main entry to the Reservation eventually be developed at the intersection of Highway 246 and Cuesta Street. The Tribe is currently considering this as an option and is negotiating with the County, however, any such development or potential development may not occur for several years. The proposed roadway would not be constructed on the subject parcels with the exception of a small tip of the "Davidge" parcel. The "Walker" parcel would not be affected.

In the event the Tribe agrees to the County's proposal, the project would be under the State's jurisdiction making them the lead agency concerning all environmental regulations such as CEQA. The property will remain the same with the existing structures on it and the Tribe has no future plans for development. Its value is solely as a route for existing utility lines, which traverse the Reservation, and to unite the Santa Ynez Indian Reservation into one contiguous block of land. The uniting of the Reservation will also allow the Band to have authority to make important decisions affecting the lands within the Reservation boundaries. This ideal is one of the most fundamental of Tribal self-governance rights and goals.

The property known as the "Walker" parcel has a residential structure located on it and consists of 1.06 acres. The Band intends to keep this existing structure and utilize it for member use. The parcel known as the "Davidge" parcel consists of 11.3 acres and has several mobile home units on the property, which will also be used for tribal members.

Factor 3 - Impact on State and Local Government's Tax Base.

The assessed taxes for Parcel Numbers 141-450-07 and 141-450-06 were \$4,014.40 for the 2000/01 fiscal year. The County's annual tax revenue for the same period was approximately \$323 million.

Through donations and financial commitments, the Tribe has independently provided assistance to its local community. Specifically, the Tribe has entered into a five-year contract with the Santa Barbara County Fire District to fund a 24-hour, 7-day-a-week, full-time firefighter/paramedic position. It has also purchased a search and rescue vehicle that provides service to the local community and thermal imaging cameras for the Lompoc Fire Department. For repairs and improvements to Highway 246, the Tribe has committed more than \$1 million. Recently, the Tribe opened a health clinic on the Reservation that is open to all Santa Ynez and Solvang residents. Lastly, the Tribe has given approximately \$450,000 in donations in 2002 to over 100 community organizations.

Given the foregoing, it is our determination that the loss of tax revenue will not adversely impact the State and Local Governments.

Factor 4 - Jurisdictional Problems/Potential Conflicts

Tribal jurisdiction in California is subject to P.L. 83-280, therefore, there will be no change in criminal jurisdiction. The Tribe will assert civil/regulatory jurisdiction. There are no anticipated jurisdictional or land use problems.

The zoning of the parcels is "1-E-1-Single Family Residential" which is consistent with the current/proposed use of the property. Emergency services to the property are provided by City and County Fire and Police through agreements between those agencies and the Tribe. It does not appear that transfer to trust status would result in jurisdictional conflict.

Factor 5 - Whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of land in trust status

Acceptance of the lands into Federal trust status will not impose any significant additional responsibilities or burdens on the BIA beyond those already inherent in the Federal trusteeship over the existing Reservation. The property is riparian in nature and has no forestry or mineral resources, which would require BIA management. With respect to maintenance of the property itself and the homes on the property, the Tribe has, and will continue, to maintain these through its Planning/EPA department and housing authority. The City and County Fire and Police provide emergency services to the property through agreements between those agencies and the Tribe.

While the Tribe anticipates processing an easement for a portion of the property consistent with the requested improvements from the County, this should not impose any significant burdens on the BIA, as the Tribe itself will contract for the survey and the environmental assessment, as well as the drafting of the application and easement. The BIA will only have a minimal role in processing the easement documents, and once the easement is granted, no anticipated additional responsibilities or burdens will be placed on the BIA. As such, the Bureau of Indian Affairs is equipped to administer the additional responsibilities resulting from this acquisition.

Factor 6 - Whether or not contaminants or hazardous substances are present on the property

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility for conducting a site assessment for the purposes of determining the potential of, and extent of liability from hazardous substances or other environmental remediation or injury. The record, which includes a negative Level I "Contaminant Survey Checklist", reflects that there were no hazardous materials or contaminants on the property proposed for acquisition.

National Environmental Policy Act Compliance

An additional requirement, which has to be met when considering land acquisition proposals, is the impact upon the human environment pursuant to the criteria of the National Environmental Policy Act of 1969 (NEPA). The BIA's guidelines for NEPA compliance are set forth in Part 30 of the Bureau of Indian Affairs Manual (30 BIAM), Supplement 1. Within 30 BIAM Supplement 1, reference is made to actions qualifying as "Categorical Exclusions" which are listed in Part 516 of (Interior) Department Manual (516 DM 6, Appendix 4). The actions listed therein have been determined not to individually or cumulatively affect the quality of the human environment, and therefore, do not require the preparation of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A categorical exclusion requires a qualifying action, in this case, 516 DM 6, Appendix 4, Part 4.4.I., Land Conveyance and Other Transfers of interests in land where no immediate change in land use is planned. This acquisition is for 12.36 acres, and no change in land use is immediately anticipated. A categorical exclusion was approved on April 9, 2002.

CONCLUSION

Based on the foregoing, we at this time issue notice of our intent to accept the subject real property into trust. Subject acquisition will vest title to the subject real property in the United States of America in trust for the Santa Ynez Band of Mission Indians in accordance with the Indian Reorganization Act (IRA) of June 18, 1934 (48 Stat. 984; 25 U.S.C. 465).

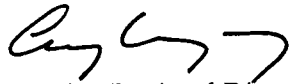
If any party receiving this notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy of this notice to said party or timely provide our office with the name and address of said party.

Should any of the below-listed known interested parties feel adversely affected by this decision, an appeal may be filed within thirty (30) days of receipt of this notice with the Interior Board of Indian Appeals, U.S. Department of the Interior, 801 N. Quincy St., Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed).

Any notice of appeal to the Board must be signed by the appellant or the appellant's legal counsel, and the notice of the appeal must be mailed within 30 days of the date of receipt of this notice. The notice of appeal should clearly identify the decision being appealed. If possible, a copy of this decision should be attached. Any appellant must send copies of the notice of appeal to: (1) the Assistant Secretary of Indian Affairs, U.S. Department of Interior, 1849 C Street, N.W., MS-4140-MIB, Washington, D.C. 20240; (2) each interested party known to the appellant; and (3) this office. Any notice of appeal sent to the Board of Indian Appeals must certify that copies have been sent to interested parties. If a notice of appeal is filed, the Board of Indian Appeals will notify appellant of further appeal procedures.

If no appeal is timely filed, further notice of a final agency action will be issued by the undersigned pursuant to 25 CFR 151.12(b).

Sincerely,



Acting Regional Director

Enclosure

43 CFR 4.310-4.340

cc: Distribution List

cc: BY CERTIFIED MAIL – RETURN RECIEPTS REQUESTED TO:

Honorable Barbara Boxer – 7002 0510 0002 8312 0067
District Office
600 B Street, Suite 2240
San Diego, California 92101

Honorable Diane Feinstein – 7002 0510 0002 8312 0074
Southern California Director
Mr. Guillermo Gonzalez
1111 Santa Monica Blvd., Suite 210
Los Angeles, California 90025

James Peterson – 7002 0510 0002 8312 0081
District Director
Office of the Honorable Dianne Feinstein
750 "B" Street, Suite 1030
San Diego, California 92101

Honorable Lois Capps – 7002 0510 0002 8312 0098
U.S. House of Representatives
1428 Chapalla Street
Santa Barbara, CA 93101

Honorable Gray Davis – 7002 0510 0002 8312 0104
Office of the Governor
State Capital Building
Sacramento, California 95814

California State Clearinghouse – 7002 0510 8312 0111
Office of Planning and Research
P.O. Box 3044
Sacramento, California 95812-3044

Ms. Sara J. Drake, Deputy Attorney General – 7002 0510 0002 8312 0128
State of California
Department of Justice
P.O. Box 944255
Sacramento, California 94244-2550

Ms. Shelleyann Chang – 7002 0510 0002 8312
Chief Deputy Legal Affairs Secretary
Office of the Governor of California
State Capitol Building
Sacramento, California 95814

Riverside County Building Services – 7002 0510 0002 8312 0142
3133 Mission Inn Avenue
Riverside, California 92507-14199

County of Riverside – 7002 0510 0002 8312 0159
Planning Department
4080 Lemon Street 9th Floor
Riverside, California 92501

Riverside County Sheriff's Department – 7002 0510 0002 8312 0166
P.O. Box 512
Riverside, California 92502

County of Riverside -7002 0510 0002 8312 0173
Board of Supervisors
P.O. Box 1527
Riverside, California 92502-1527

Riverside Treasurer and Tax Collector – 7002 0510 0002 8312 0180
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Riverside, California 92501

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Chief of Police
Lompoc Police Department
107 Civic Center Plaza
Lompoc, CA 93436

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County Board of Supervisors
Santa Barbara County
401 E. Cypress Avenue
Lompoc, CA 93436

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City Manager
City of Solvang
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Solvang, CA 93465

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City of Solvang
1644 Oak Street
Solvang, CA 93464

Honorable Neil Jones – 7002 0510 0002 8312 0234
City of Buelton
140 W. Highway 246
Buelton, CA 93427

Lieutenant Mal Parr – 7002 0510 0002 8312 0241
Sheriff's Department
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Buelton, CA 93427

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Santa Barbara, CA 93101

Honorable Gail Marshall – 702 0510 0002 8312 0265
Third Supervisorial District
105 E. Annapamu Street
Santa Barbara, CA 93101

Chief Warner McGrew – 702 0510 0002 8312 0272
Fire Department, City of Santa Barbara
121 W. Carrillo Street
Santa Barbara, CA 93101

Mr. Camerino Sanchez – 702 0510 0002 8312 0289
Chief of Police, Santa Barbara Police Department
215 E. Figueroa Street
Santa Barbara, CA 93101

Mr. Phil Demery – 702 0510 0002 8312 0296
Director of Public Works
County of Santa Barbara
Santa Barbara, CA 93101

Ms. Beth Hannon – 702 0510 0002 8312 0302
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Santa Barbara, CA 93101

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Santa Barbara, CA 93102

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Santa Barbara, CA 93101

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Chief Administrative Office
County of San Diego
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San Diego, CA 92101-2472

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General Manager
Santa Ynez Community Services District
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Santa Ynez, CA 93460

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Campo Band of Diegueno Mission Indians
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Campo, CA 91906

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Cahuilla Band of Mission Indians
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Anza, CA 92539

Mr. Harlan Pinto, Jr., Chairman – 7002 0510 0002 8312 0395
Ewiiapaayp Band of Kumeyaay Indians
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Alpine, CA 91903-2250

Ms. Rebecca Osuna, Chairperson – 7002 0510 0002 8312 0401
Inaja & Cosmit
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Escondido, CA 92025

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Jamul, CA 91935

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Banning, CA 92220

Mr. Robert Smith, Chairman 7002 0510 0002 8312 0470
Pala Band of Luisen Mission Indians
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Pala, CA 92070

Mr. Christobal C. Devers, Chairman – 7002 0510 0002 8312 0487
Pauma & Yuma
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Pauma Valley, CA 92061

Mr. Mark Macarro, Chairman – 7002 0510 0002 8312 0534
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Temecula, California 92593

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Ramona Band of Mission Indians
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Mr. John Currier, Chairman – 7002 0510 0002 8312 0548
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Patton, CA 92369

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Santa Ysabel, CA 92070

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San Jacinto, CA 92581

Mr. Daniel Tucker, Spokesman – 7002 3150 0005 2284 9578
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El Cajon, CA 92021

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Torres-Martinez Desert Cahuilla Indians
P.O. Box 1160
Thermal, California 92274

Mr. Dean Mike, Chairman – 7002 3150 0005 2284 9592
Twenty-Nine Palms of Mission Indians
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Coachella, California 92236

Mr. Anthony Pico, Chairman – 7002 3150 0005 2284 9608
Viejas (Baron Long) Group of Captain Grand Band of Mission Indians
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Alpine, CA 91903

Ms. Brenda Tomaras – 7002 3150 0005 2284 9615
California Indian Legal Services
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Escondido, CA 92025

Mr. Charles Jackson, Co-Chair – 7002 3150 0005 2284 9622
The Santa Ynez Valley Concerned Citizens
P.O. Box 244
Santa Ynez, CA 93460

Mr. R. MacDonald – 7002 3150 0005 2284 9639
3521 Tivola Street
Santa Ynez, CA 93460

Ms. Karen Woodward – 7002 3150 0005 2284 9646
Project Manager
Morongo Planning & Economic Development
245 N. Murray St.
Banning, CA 92220

Regular Mail:

Superintendent
Bureau of Indian Affairs
Southern California Agency
2038 Iowa Avenue, Suite 101
Riverside, California 92507-0001

Title 43, Code of Federal Regulations, Administrative
Appeals to the Interior Board
of Indian Appeals
§4.306

43 CFR Subtitle A (10-1-94 Edition)

tate in one-half of the interests. The decision shall specify the right of appeal to the Board of Indian Appeals within 60 days from the date of the decision in accordance with §§4.310 through 4.323. The administrative law judge shall lodge the complete record relating to the demand for hearing with the title plant as provided in §4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

[36 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 28, 1990]

§4.306 Time for payment.

A tribe shall pay the full fair market value of the interests purchased, as set forth in the appraisal report or as determined after hearing in accordance with §4.305, whichever is applicable, within 2 years from the date of decedent's death or within 1 year from the date of notice of purchase, whichever comes later.

§4.307 Title.

Upon payment by the tribe of the interests purchased, the Superintendent shall issue a certificate to the administrative law judge that this has been done and file therewith such documents in support thereof as the administrative law judge may require. The administrative law judge shall then issue an order that the United States holds title to such interests in trust for the tribe, lodge the complete record, including the decision, with the title plant as provided in §4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

§4.308 Disposition of income.

During the pendency of the probate and up to the date of transfer of title to the United States in trust for the tribe in accordance with §4.307, all income received or accrued from the land interests purchased by the tribe shall be credited to the estate.

CROSS REFERENCE: See 25 CFR part 2 for procedures for appeals to Area Directors and to the Commissioner of the Bureau of Indian Affairs.

GENERAL RULES APPLICABLE TO PROCEEDINGS ON APPEAL BEFORE THE INTERIOR BOARD OF INDIAN APPEALS

SOURCE: Sections 4.310 through 4.318 appear at 54 FR 6485, Feb. 10, 1989, unless otherwise noted.

§4.310 Documents.

(a) *Filing.* The effective date for filing a notice of appeal or other document with the Board during the course of an appeal is the date of mailing or the date of personal delivery, except that a motion for the Board to assume jurisdiction over an appeal under 25 CFR 2.20(e) shall be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings shall be served on all parties in interest in any proceeding before the Interior Board of Indian Appeals by the party filing the notice or pleading with the Board. Service shall be accomplished upon personal delivery or mailing. Where a party is represented in an appeal by an attorney or other representative authorized under 43 CFR 1.3, service of any document on the attorney or representative is service on the party. Where a party is represented by more than one attorney, service on any one attorney is sufficient. The certificate of service on an attorney or representative shall include the name of the party whom the attorney or representative represents and indicate that service was made on the attorney or representative.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed or answered was served or the day of any other event after which a designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other

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§4.314

nonbusiness days shall be excluded in the computation.

(d) *Extensions of time.* (1) The time for filing or serving any document except a notice of appeal may be extended by the Board.

(2) A request to the Board for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the Board may grant an extension of time on its own initiative.

(e) *Retention of documents.* All documents received in evidence at a hearing or submitted for the record in any proceeding before the Board will be retained with the official record of the proceeding. The Board, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Board.

§4.311 Briefs on appeal.

(a) The appellant may file an opening brief within 30 days after receipt of the notice of docketing. Appellant shall serve copies of the opening brief upon all interested parties or counsel and file a certificate with the Board showing service upon the named parties. Opposing parties or counsel shall have 30 days from receipt of appellant's brief to file answer briefs, copies of which shall be served upon the appellant or counsel and all other parties in interest. A certificate showing service of the answer brief upon all parties or counsel shall be attached to the answer filed with the Board.

(b) Appellant may reply to an answering brief within 15 days from its receipt. A certificate showing service of the reply brief upon all parties or counsel shall be attached to the reply filed with the Board. Except by special permission of the Board, no other briefs will be allowed on appeal.

(c) The Bureau of Indian Affairs shall be considered an interested party in any proceeding before the Board. The Board may request that the Bureau submit a brief in any case before the Board.

(d) An original only of each document should be filed with the Board. Documents should not be bound along the side.

(e) The Board may also specify a date on or before which a brief is due. Unless expedited briefing has been granted, such date shall not be less than the appropriate period of time established in this section.

§4.312 Decisions.

Decisions of the Board will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion or order of an official of the Bureau of Indian Affairs or an administrative law judge. Distribution of decisions shall be made by the Board to all parties concerned. Unless otherwise stated in the decision, rulings by the Board are final for the Department and shall be given immediate effect.

§4.313 Amicus Curiae; intervention; joinder motions.

(a) Any interested person or Indian tribe desiring to intervene or to join other parties or to appear as amicus curiae or to obtain an order in an appeal before the Board shall apply in writing to the Board stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to limitations established by the Board. This section shall be liberally construed.

(b) Motions to intervene, to appear as amicus curiae, to join additional parties, or to obtain an order in an appeal pending before the Board shall be served in the same manner as appeal briefs.

§4.314 Exhaustion of administrative remedies.

(a) No decision of an administrative law judge or an official of the Bureau of Indian Affairs, which at the time of its rendition is subject to appeal to the Board, shall be considered final so as to constitute agency action subject to judicial review under 5 U.S.C. 704, unless made effective pending decision on appeal by order of the Board.

(b) No further appeal will lie within the Department from a decision of the Board.

§4.315

(c) The filing of a petition for reconsideration is not required to exhaust administrative remedies.

(54 FR 6485, Feb. 10, 1989; 54 FR 7504, Feb. 21, 1989)

§4.315 Reconsideration.

(a) Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Board within 30 days from the date of the decision and shall contain a detailed statement of the reasons why reconsideration should be granted.

(b) A party may file only one petition for reconsideration.

(c) The filing of a petition shall not stay the effect of any decision or order and shall not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Board.

§4.316 Remands from courts.

Whenever any matter is remanded from any court to the Board for further proceedings, the Board will either remand the matter to an administrative law judge or to the Bureau of Indian Affairs, or to the extent the court's directive and time limitations will permit, the parties shall be allowed an opportunity to submit to the Board a report recommending procedures for it to follow to comply with the court's order. The Board will enter special orders governing matters on remand.

§4.317 Standards of conduct.

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board shall be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of

43 CFR Subtitle A (10-1-94 Edition)

Hearings and Appeals shall determine the matter of disqualification.

§4.318 Scope of review.

An appeal shall be limited to those issues which were before the administrative law judge upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the official of the Bureau of Indian Affairs on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board shall not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

APPEALS TO THE BOARD OF INDIAN APPEALS IN PROBATE MATTERS

SOURCE: Sections 4.320 through 4.323 appear at 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

§4.320 Who may appeal.

A party in interest shall have a right of appeal to the Board of Indian Appeals from an order of an administrative law judge on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(a) *Notice of Appeal.* Within 60 days from the date of the decision, an appellant shall file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. A statement of the errors of fact and law upon which the appeal is based shall be included in either the notice of appeal or in any brief filed. The notice of appeal shall include the names and addresses of parties served. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction.

(b) *Service of copies of notice of appeal.* The appellant shall personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy shall be served upon the administrative law judge whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board shall

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include a copy made as required (c) Action record in law judge, notice of perintende duplicate and 4.241(c) part, to the Office deal part. The e formed to ties and R after be at the La or at the In those c the hearit ministrati transcript warded to from recei appeal.

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Within 60 days sion, an appel- notice of ap- nt, appellant's ed representa- R 1.3, with the als. Office of S. Department on Boulevard. A statement und law upon ed shall be in- ce of appeal or tice of appeal and addresses tice of appeal dismissed for

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include a certification that service was made as required by this section.

(c) Action by administrative law judge; record inspection. The administrative law judge, upon receiving a copy of the notice of appeal, shall notify the Superintendent concerned to return the duplicate record filed under §§4.238(b) and 4.241(d), or under §4.242(f) of this part, to the Land Titles and Records Office designated under §4.238(b) of this part. The duplicate record shall be conformed to the original by the Land Titles and Records Office and shall thereafter be available for inspection either at the Land Titles and Records Office or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the administrative law judge shall have a transcript prepared which shall be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

§4.321 Notice of transmittal of record on appeal.

The original record on appeal shall be forwarded by the Land Titles and Records Office to the Board by certified mail. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing issued under §4.322 of this part.

§4.322 Docketing.

The appeal shall be docketed by the Board upon receipt of the administrative record from the Land Titles and Records Office. All interested parties as shown by the record on appeal shall be notified of the docketing. The docketing notice shall specify the time within which briefs may be filed and shall cite the procedural regulations governing the appeal.

§4.323 Disposition of the record.

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcripts prepared because of the appeal and the Board's decision, shall be forwarded by the Board to the Land Titles and Records Office designated under §4.238(b) of this part. Upon receipt of the record by the Land

Titles and Records Office, the duplicate record required by §4.320(c) of this part shall be conformed to the original and forwarded to the Superintendent concerned.

APPEALS TO THE BOARD OF INDIAN APPEALS FROM ADMINISTRATIVE ACTIONS OF OFFICIALS OF THE BUREAU OF INDIAN AFFAIRS: ADMINISTRATIVE REVIEW IN OTHER INDIAN MATTERS NOT RELATING TO PROBATE PROCEEDINGS

SOURCE: Sections 4.330 through 4.340 appear at 64 FR 6487, Feb. 10, 1999, unless otherwise noted.

§4.330 Scope.

(a) The definitions set forth in 25 CFR 2.2 apply also to these special rules. These regulations apply to the practice and procedure for: (1) Appeals to the Board of Indian Appeals from administrative actions or decisions of officials of the Bureau of Indian Affairs issued under regulations in 25 CFR chapter 1, and (2) administrative review by the Board of Indian Appeals of other matters pertaining to Indians which are referred to it for exercise of review authority of the Secretary or the Assistant Secretary—Indian Affairs.

(b) Except as otherwise permitted by the Secretary or the Assistant Secretary—Indian Affairs by special delegation or request, the Board shall not adjudicate:

- (1) Tribal enrollment disputes;
- (2) Matters decided by the Bureau of Indian Affairs through exercise of its discretionary authority; or

(3) Appeals from decisions pertaining to final recommendations or actions by officials of the Minerals Management Service, unless the decision is based on an interpretation of Federal Indian law (decisions not so based which arise from determinations of the Minerals Management Service, are appealable to the Interior Board of Land Appeals in accordance with 43 CFR 4.410).

§4.331 Who may appeal.

Any interested party affected by a final administrative action or decision of an official of the Bureau of Indian Affairs issued under regulations in title 25 of the Code of Federal Regulations

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may appeal to the Board of Indian Appeals, except—

(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official;

(b) Where the decision has been approved in writing by the Secretary or Assistant Secretary—Indian Affairs prior to promulgation; or

(c) Where otherwise provided by law or regulation.

§4.332 Appeal to the Board; how taken; mandatory time for filing; preparation assistance; requirement for bond.

(a) A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative as provided by 43 CFR 1.3, and filed with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 days after receipt by the appellant of the decision from which the appeal is taken. A copy of the notice of appeal shall simultaneously be filed with the Assistant Secretary—Indian Affairs. As required by §4.333 of this part, the notice of appeal sent to the Board shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction. A notice of appeal shall include:

- (1) A full identification of the case;
- (2) A statement of the reasons for the appeal and of the relief sought; and
- (3) The names and addresses of all additional interested parties, Indian tribes, tribal corporations, or groups having rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in the earlier proceedings.

(b) In accordance with 25 CFR 2.20(c) a notice of appeal shall not be effective for 20 days from receipt by the Board, during which time the Assistant Secretary—Indian Affairs may decide to review the appeal. If the Assistant Secretary—Indian Affairs properly notifies the Board that he has decided to review the appeal, any documents concerning

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the case filed with the Board shall be transmitted to the Assistant Secretary—Indian Affairs.

(c) When the appellant is an Indian or Indian tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal.

(d) At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved.

§4.333 Service of notice of appeal.

(a) On or before the date of filing of the notice of appeal the appellant shall serve a copy of the notice upon each known interested party, upon the official of the Bureau of Indian Affairs from whose decision the appeal is taken, and upon the Assistant Secretary—Indian Affairs. The notice of appeal filed with the Board shall certify that service was made as required by this section and shall show the names and addresses of all parties served. If the appellant is an Indian or an Indian tribe not represented by counsel, the appellant may request the official of the Bureau whose decision is appealed to assist in service of copies of the notice of appeal and any supporting documents.

(b) The notice of appeal will be considered to have been served upon the date of personal service or mailing.

§4.334 Extensions of time.

Requests for extensions of time to file documents may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal which, as specified in §4.332 of this part, may not be extended.

§4.335 Preparation and transmittal of record by official of the Bureau of Indian Affairs.

(a) Within 20 days after receipt of a notice of appeal, or upon notice from the Board, the official of the Bureau of Indian Affairs whose decision is appealed shall assemble and transmit the record to the Board. The record on appeal shall include, without limitation, copies of transcripts of testimony

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taken; all original documents, or applications, or proceedings which were initiated by interested parties upon which all parties are based.

(b) The administrative record shall include a Table of Contents, including:

- (1) The decision;
- (2) The notice of appeal and the notice of hearing thereof; and
- (3) Certifications of all information utilized by the Board in rendering the decision.

(c) If the decision is appealed to the Assistant Secretary—Indian Affairs, the administrative record shall be forwarded to the Assistant Secretary—Indian Affairs, the Board.

§4.336 Docketing.

An appeal shall be docketed by the number by the Assistant Secretary—Indian Affairs. The docketing number shall be the number of the notice of appeal. A notice of appeal shall be filed with the record of the appeal. The docketing number shall be the number of the notice of appeal. The docketing number shall be the number of the notice of appeal. The docketing number shall be the number of the notice of appeal.

§4.337 Action.

(a) The Board shall review the appeal, or where necessary shall refer the appeal to the Assistant Secretary—Indian Affairs for review. The Board shall review the appeal, or where necessary shall refer the appeal to the Assistant Secretary—Indian Affairs for review. The Board shall review the appeal, or where necessary shall refer the appeal to the Assistant Secretary—Indian Affairs for review.

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documents which set forth claims of in-
terested parties; and all documents
upon which all previous decisions were
based.

(b) The administrative record shall
include a Table of Contents noting, at
a minimum, inclusion of the following:

(1) The decision appealed from;
(2) The notice of appeal or copy
thereof; and

(3) Certification that the record con-
tains all information and documents
utilized by the deciding official in ren-
dering the decision appealed.

(c) If the deciding official receives
notification that the Assistant Sec-
retary—Indian Affairs has decided to
review the appeal before the adminis-
trative record is transmitted to the
Board, the administrative record shall
be forwarded to the Assistant Sec-
retary—Indian Affairs rather than to
the Board.

§4.338 Docketing.

An appeal shall be assigned a docket
number by the Board 20 days after re-
ceipt of the notice of appeal unless the
Board has been properly notified that
the Assistant Secretary—Indian Affairs
has assumed jurisdiction over the ap-
peal. A notice of docketing shall be
sent to all interested parties as shown
by the record on appeal upon receipt of
the administrative record. Any objec-
tion to the record as constituted shall
be filed with the Board within 15 days
of receipt of the notice of docketing.
The docketing notice shall specify the
time within which briefs shall be filed,
cite the procedural regulations govern-
ing the appeal and include a copy of
the Table of Contents furnished by the
deciding official.

§4.337 Action by the Board.

(a) The Board may make a final deci-
sion, or where the record indicates a
need for further inquiry to resolve a
genuine issue of material fact, the
Board may require a hearing. All hear-
ings shall be conducted by an adminis-
trative law judge of the Office of Hear-
ings and Appeals. The Board may, in
its discretion, grant oral argument be-
fore the Board.

(b) Where the Board finds that one or
more issues involved in an appeal or a
matter referred to it were decided by
the Bureau of Indian Affairs based
upon the exercise of discretionary au-
thority committed to the Bureau, and
the Board has not otherwise been per-
mitted to adjudicate the issue(s) pursu-
ant to §4.330(b) of this part, the Board
shall dismiss the appeal as to the
issue(s) or refer the issue(s) to the As-
sistant Secretary—Indian Affairs for
further consideration.

§4.338 Submission by administrative
law judge of proposed findings, con-
clusions and recommended deci-
sion.

(a) When an evidentiary hearing pur-
suant to §4.337(a) of this part is con-
cluded, the administrative law judge
shall recommend findings of fact and
conclusions of law, stating the reasons
for such recommendations. A copy of
the recommended decision shall be sent
to each party to the proceeding, the
Bureau official involved, and the
Board. Simultaneously, the entire
record of the proceedings, including the
transcript of the hearing before the ad-
ministrative law judge, shall be for-
warded to the Board.

(b) The administrative law judge
shall advise the parties at the conclu-
sion of the recommended decision of
their right to file exceptions or other
comments regarding the recommended
decision with the Board in accordance
with §4.339 of this part.

§4.339 Exceptions or comments re-
garding recommended decision by
administrative law judge.

Within 30 days after receipt of the
recommended decision of the adminis-
trative law judge, any party may file
exceptions to or other comments on
the decision with the Board.

§4.340 Disposition of the record.

Subsequent to a decision by the
Board, the record filed with the Board
and all documents added during the ap-
peal proceedings, including the Board's
decision, shall be forwarded to the offi-
cial of the Bureau of Indian Affairs
whose decision was appealed for proper
disposition in accordance with rules

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and regulations concerning treatment of Federal records.

~~WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985; AUTHORITY OF ADMINISTRATIVE JUDGES: DETERMINATIONS OF THE HEIRS OF PERSONS WHO DIED ENTITLED TO COMPENSATION~~

SOURCE: 56 FR 61383, Dec. 3, 1991, unless otherwise noted.

§4.350 Authority and scope.

(a) The rules and procedures set forth in §§4.350 through 4.357 apply only to the determination through intestate succession of the heirs of persons who died entitled to receive compensation under the White Earth Reservation Land Settlement Act of 1985, Public Law 99-264 (100 Stat. 61), amended by Public Law 100-153 (101 Stat. 888) and Public Law 100-212 (101 Stat. 1433).

(b) Whenever requested to do so by the Project Director, administrative judges shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Land Settlement Act of 1985 as amended, notwithstanding the decedent may have died testate.

(c) As used herein, the following terms shall have the following meanings:

(1) The term *Act* means the White Earth Reservation Land Settlement Act of 1985 as amended.

(2) The term *Board* means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary.

(3) The term *Project Director* means the officer in charge of the White Earth Reservation Land Settlement Branch of the Minneapolis Area Office, Bureau of Indian Affairs, at Cass Lake, Minnesota.

(4) The term *party (parties) in interest* means the Project Director and any presumptive or actual heirs of the decedent, or of any issue of any subsequently deceased presumptive or actual heir of the decedent.

(5) The term *compensation* means a monetary sum, as determined by the Project Director, pursuant to section 8(c) of the Act.

(6) The term *administrative judge* means an administrative judge of the

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Office of Hearings and Appeals to whom the Director of the Office of Hearings and Appeals has redelegated his authority, as designee of the Secretary, for making heirship determinations as provided for in these regulations.

(7) The term *appellant* means a party aggrieved by a final order or final order upon reconsideration issued by an administrative judge who files an appeal with the Board.

[56 FR 61383, Dec. 3, 1991; 56 FR 65782, Dec. 18, 1991]

§4.351 Commencement of the determination process.

(a) Unless an heirship determination which is recognized by the Act already exists, the Project Director shall commence the determination of the heirs of those persons who died entitled to receive compensation by filing with the administrative judge all data, identifying the purpose for which they are being submitted, shown in the records relative to the family of the decedent.

(b) The data shall include but are not limited to:

(1) A copy of the death certificate if one exists. If there is no death certificate, then another form of official written evidence of the death such as a burial or transportation of remains permit, coroner's report, or church registry of death. Secondary forms of evidence of death such as an affidavit from someone with personal knowledge concerning the fact of death or an obituary or death notice from a newspaper may be used only in the absence of any official proof or evidence of death.

(2) Data for heirship finding and family history, certified by the Project Director. Such data shall contain:

(i) The facts and alleged facts of the decedent's marriages, separations and divorces, with copies of necessary supporting documents;

(ii) The names and last known addresses of probable heirs at law and other known parties in interest;

(iii) Information on whether the relationships of the probable heirs at law to the decedent arose by marriage, blood, or adoption.

(3) Known heirship determinations, including those recognized by the Act determining the heirs of relatives of

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the decedent, as determined by courts of other states, by judicial authority in foreign countries.

(4) A report of the decedent, related to the decedent, and an account of such compensation of real property of the decedent, citing heirs at law, and the amount distributed to each.

(5) A certificate of the Project Director or his designee provided for were furnished and diligent search. [56 FR 61383, Dec 1991]

§4.352 Determinative judge

(a) Upon review by the Project Director, if not there are fact that need

(b) If there is requiring determinative judge will termination of inheritance laws in Such preliminary be entered when possible furnished and preliminary names, birth of decedent, and the fact that the heirs.

(1) Upon issuance, the shall issue a determination shall mail a determination together with a determination est allowing for show cause in determination should administrative certificate to be in manner of such

(2) The Project Director shall show cause, within