



IN REPLY REFER TO:

United States Department of the Interior

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

JUN 24 2016

Notice of (Non-Gaming) Land Acquisition Application

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10, notice is given of the application filed by the Table Mountain Rancheria 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:

Table Mountain Rancheria of California

Legal Land Description/Site Location:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A-1: APN 300-290-26

The North 220.00 feet of the South 385.00 feet of the North half of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to



the Official Plat thereof, lying West of the Westerly right-of-way line of Sky Harbour Drive as granted to the County of Fresno by deeds recorded in Book 5109 Page 487 and Book 5162 Page 580, Official Records.

Excepting therefrom the West 805.00 feet thereof.

PARCEL A-2:

A 60 foot non-exclusive access easement for road and utility purposes over and across the existing dirt road.

PARCEL B-1: APN 300-290-22

The South 210.00 feet of the North 375.00 feet of the West 850.00 feet of the Northwest quarter of the Northeast quarter and the West 260.00 feet of the North 165.00 feet of the Northwest quarter of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof.

PARCEL B-2:

A 60 foot non-exclusive access easement for road and utility purposes over and across the existing dirt road.

PARCEL C: APN 300-290-52 and 300-290-53

Parcels 1 and 2 of Parcel Map No. 7732, according to the map thereof recorded March 25, 2003 in Book 62 Page 51 of Parcel Maps, Fresno County Records.

PARCEL D-1: APN 300-290-19

The South 343 feet of the West 635.00 feet of the Northwest Quarter of the Northeast Quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian in the County of Fresno, State of California, according to the Official Government Plat thereof.

PARCEL D-2:

A 60 foot non-exclusive access easement for road and utility purposes over and across the existing dirt road.

PARCEL E: APN 300-290-17

The West 850.00 feet of the Northwest quarter of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof.

Excepting therefrom the South 686.00 feet thereof.

Also excepting therefrom the North 375.00 feet thereof.

PARCEL F: APN 300-290-29

The North 165.00 feet of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, lying North and West of the Westerly right-of-way line of Sky Harbour Drive as granted to the County of Fresno by deeds recorded in Book 5109 Page 487 and Book 5162 Page 580, Official Records.

Excepting therefrom the West 260.00 feet thereof.

Also Excepting therefrom beginning at the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 11; thence South $56^{\circ}12'36''$ East, 132.69 feet, more or less, to a point on the Westerly right-of-way line of Sky Harbour Drive as granted to the County of Fresno by deeds recorded in Book 5109 Page 487 and Book 5162 Page 580, Official Records, said point also lying 165.00 feet Northeasterly as measured along said Westerly right-of-way from a point lying 165.00 feet South of the North line of said Northeast quarter of Section 2; thence along said Westerly right-of-way Northeasterly 136.00 feet, more or less, to the North line of said Northeast quarter of Section 2; thence North $88^{\circ}09'14''$ West along said North line 229.00 feet, more or less, to the point of beginning.

PARCEL G: APN 300-290-20

The South 280.00 feet of the North 445.00 feet of the North half of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, lying North and West of the Westerly right-of-way line of Sky Harbour Drive as granted to the County of Fresno by deeds recorded in Book 5109 Page 487 and Book 5162 Page 580, Official Records.

Excepting therefrom the West 850.00 feet thereof.

PARCEL H: APN 300-290-21

All that portion of the North half of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, described as follows:

Beginning at the Southeast corner of that certain parcel of land described in Parcel "C" Exception of deed recorded in Book 7225 Page 782, Official Records; thence West a distance of 160.00 feet to the Southwest corner of said Parcel "C" Exception; thence West parallel to the North line of said Northeast quarter to the East line of the West 850.00 feet of said North half; thence North along said East line to the North line of the South 686.00 feet of said North half; thence West along said North line to the East line of the West 635.00 feet of said North half;

thence South along said East line to the North line of the South 343.00 feet of said North half; thence East along said North line 170.00 feet to the East line of the West 805.00 feet of said North half; thence North along said East line to the North line of the South 385.00 feet of said North half; thence East along said North line to the Westerly right-of-way line of Sky Harbour Drive as granted to the County of Fresno by deeds recorded in Book 5109 Page 487 and Book 5162 Page 580, Official Records; thence Northerly along said Westerly right-of-way line to the point of beginning.

PARCEL I: APN 300-290-23

All that portion of the North half of the Northeast quarter of Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, described as follows:

Beginning at the Southwest corner of that certain parcel of land described in Parcel "C" Exception of deed recorded in Book 7225 Page 782, Official Records; thence West parallel to the North line of said Northeast quarter to the East line of the West 850.00 feet of said Northeast quarter; thence North along said East line to the South line of the North 445.00 feet of said Northeast quarter; thence East along said South line to the Westerly right-of-way line of Sky Harbour Drive as granted to the County of Fresno by deeds recorded in Book 5109 Page 487 and Book 5162 Page 580, Official Records; thence Southerly along said right-of-way line to the Northeast corner of said Parcel "C" Exception; thence West 133.61 feet to the Northwest corner of said Parcel "C" Exception; thence South 147.66 feet to the point of beginning.

PARCEL J: APN 300-290-24

The North 343.00 feet of the South 686.00 feet of the West 635.00 feet of the Northwest quarter of the Northeast quarter all in Section 11, Township 11 South, Range 21 East, Mount Diablo Base and Meridian, according to the Official Plat thereof.

Project Description/Proposed Land Use:

The subject property consists of eleven parcels of land, encompassing approximately 44.03 acres more or less, commonly referred to as Assessor's Parcel Numbers: 300-290-17, 300-290-19, 300-290-20, 300-290-21, 300-290-22, 300-290-23, 300-290-24, 300-290-26, 300-290-29, 300-290-52 and 300-290-53. The parcels are contiguous to the northwestern boundary of Table Mountain's existing reservation. Currently, the property has a Tribal Cemetery, two water storage tanks, five inactive wells, and two associated access roads. There is no proposed any change in land use or ground disturbing activity.

See Exhibits for parcel/site maps

Current Use/Taxes and Zoning:

300-290-17 - \$ 3,057.76
300-290-19 - \$ 411.24

300-290-20 - \$ 1,442.30
300-290-21 - \$ 1,961.54
300-290-22 - \$ 1,071.00
300-290-23 - \$ 1,384.62
300-290-24 - \$ 3,063.56
300-290-26 - \$ 1,582.00
300-290-29 - \$ 2,405.82
300-290-52 - \$ 3,827.26
300-290-53 - \$ 1,176.54

Existing Easements/Encumbrances:

See attached Schedule B

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

Your written comments should be addressed to the Bureau of Indian Affairs at the address at the top of this notice. Any comments received within thirty days of your receipt of this notice will be considered and made a part of our record. You may be granted an extension of time to furnish comments, provided you submit a written justification requesting such an extension within thirty days of receipt of this letter. An extension of ten to thirty days may be granted. Copies of all comments will additionally be provided to the applicant. You will be notified of the decision to approve or deny the application.

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

A copy of the application, excluding any documentation exempted under the Freedom of Information Act, is available for review at the above address. A request to make an appointment to review the application, or questions regarding the application, may be directed to Lorrae Russell, Realty Specialist, at (916) 978-6071.

Sincerely,



Regional Director

Enclosure: 25 CFR 151
Schedule B
Maps

DISTRIBUTION LIST

cc: BY CERTIFIED MAIL – RETURN RECEIPTS REQUESTED TO:

California State Clearinghouse (10 copies) – 7015 3010 0000 3622 5308
Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Sara J. Drake, Deputy Attorney General – 7015 3010 0000 3622 5315
State of California
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Mr. Joe Dhillon - 7015 3010 0000 3622 5322
Senior Advisor for Tribal Negotiations
Office of the Governor
State Capitol Building, Suite 1173
Sacramento, CA 95814

Office of the Honorable Dianne Feinstein – 7015 3010 0000 3622 5339
331 Hart Senate Office Building
Washington, DC 20510

Board of Supervisors – 7015 3010 0000 3622 5346
County of Fresno
2281 Tulare Street, Room 301
Fresno, California 93721-2198

Fresno County Treasurer and Tax Collector – 7015 3010 0000 3622 5353
Hall of Records
P. O. Box 1247
Fresno, California 93721

Planning Director – 7015 3010 0000 3622 5360
Planning Department
County of Fresno Plaza
2220 Tulare Street, Suite 800
Fresno, California 93721

Fresno County Dept. of Public Works – 7015 3010 0000 3622 5377
Fresno Plaza
2220 Tulare Street, Suite 700
Fresno, California 93721

Bart Bohn, County Administrative Officer – 7015 3010 0000 3622 5384
Hall of Records
2281 Tulare Street, Suite 304
Fresno, California 93721

Chairperson – 7015 3010 0000 3622 5391
Big Sandy Rancheria
P.O. Box 337
Auberry, CA 93602

Chairperson – 7015 3010 0000 3622 5407
Cold Springs Rancheria
P.O. Box 209
Tollhouse, CA 93667

Anderson Indian Law – 7015 3010 0000 3622 5414
503 C Street NE
Washington, D.C. 20002

Regular Mail:

Superintendent
Bureau of Indian Affairs
Central California Agency
650 Capitol Mall
Sacramento, CA 95814

**SCHEDULE B - SECTION II
EXCEPTIONS**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2015-2016.

Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

2. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring prior to date of policy.
3. Said land lies within the boundaries of the Sierra Resource Conservation District and is subject to any and all assessments levied thereunder.
4. Said land lies within the boundaries of the Fresno County Fire Protection District and is subject to any and all assessments levied thereunder.
5. Reservations contained in the Patent from the United States of America,

Which among other things recites as follows:

Subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of the courts; and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted, as provided by law; and the reservation from the lands hereby granted of a right of way thereon for ditches or canals constructed by the authority of the United States.

6. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Janet Loring and Janice C. Young
Purpose: Ingress and egress
Recording Date: March 27, 1973
Recording No.: 28931, Book 6145, Page 129 of Official Records
Affects: A strip of land 30 feet in width, the center line of which is described therein

Reference is hereby made to said document for full particulars.

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**SCHEDULE B - SECTION II
EXCEPTIONS**

(continued)

7. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: P.G. & E. or such other utility
 Purpose: Right to have a well drilled with right of ingress and egress
 Recording Date: February 21, 1979
 Recording No.: 21960, Book 7225, Page 790 of Official Records
 Affects: As described therein

Reference is hereby made to said document for full particulars.

8. A) Easements and rights incidental thereto, rights or interest arising out of

The sale or transfer of lots, blocks, plots or sections as to the cemetery disclosed on the map attached to the Real Property Lease recorded February 23, 1979, Recording No. 21960, Book 7225, page 790 of Official Records, or of burial rights therein;

The sale or transfer of crypts or vaults in any mausoleum, and of niches in any columbarium to be erected on the herein described land; or

Any interment in said land.

B) Easements and rights incidental thereto over any of the unnamed streets, roads, alleys, walks, paths, parks or parkways shown on the map attached to said lease.

C) Restrictions imposed by law regarding the sale and disposition of said land or a place within any mausoleum or columbarium erected thereon resulting from the use or dedication of said land for cemetery purposes.

9. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
 Purpose: Access easement for road and utility
 Recording Date: July 31, 1980
 Recording No.: 71398, Book 7558, Page 162
 Affects: Existing 60 foot dirt road (Parcel E)

10. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;

Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
 Purpose: Access easement for road and utility
 Recording Date: July 31, 1980
 Recording No.: 71399, Book 7558, Page 163 of Official Records
 Affects: Existing 60 foot dirt road (Parcel F)

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**SCHEDULE B - SECTION II
EXCEPTIONS**

(continued)

11. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;
- Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
Purpose: Ingress and egress
Recording Date: July 31, 1980
Recording No.: 71399, Book 7558, Page 163 of Official Records
Affects: North 60 feet of Parcel F
12. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;
- Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
Purpose: Access easement for road and utility
Recording Date: July 31, 1980
Recording No.: 71401, Book 7558, Page 165
Affects: Existing 60 foot dirt road (Parcel G)
13. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;
- Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
Purpose: Access easement for road and utility
Recording Date: July 31, 1980
Recording No.: 71402, Book 7558, Page 166 of Official Records
Affects: Existing 60 foot dirt road (Parcel H)
14. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;
- Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
Purpose: Access easement for road and utility
Recording Date: December 23, 1980
Recording No.: 125003, Book 7645, Page 288 of Official Records
Affects: Existing 60 foot dirt road (Parcel I)
15. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;
- Reserved by: Walter E. Lambrecht and Joanne E. Lambrecht, husband and wife, as joint tenants
Purpose: Access easement for road and utility
Recording Date: January 2, 1981
Recording No.: 398, Book 7651, Page 359 of Official Records
Affects: Existing 60 foot dirt road (Parcel J)

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**SCHEDULE B - SECTION II
EXCEPTIONS**

(continued)

16. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The Ponderosa Telephone Co.
Purpose: Public utilities
Recording Date: April 24, 1984
Recording No.: 84039756 of Official Records
Affects: Parcels A and H

Reference is hereby made to said document for full particulars.

17. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The Ponderosa Telephone Co.
Purpose: Public utilities
Recording Date: April 24, 1984
Recording No.: 84039757 of Official Records
Affects: Parcel C

Reference is hereby made to said document for full particulars.

18. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The Ponderosa Telephone Co.
Purpose: Public utilities
Recording Date: April 24, 1984
Recording No.: 84039758 of Official Records
Affects: Parcel A

Reference is hereby made to said document for full particulars.

19. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The Ponderosa Telephone Co.
Purpose: Public utilities
Recording Date: June 1, 1984
Recording No.: 84053069 of Official Records
Affects: Parcel C

Reference is hereby made to said document for full particulars.

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**SCHEDULE B - SECTION II
EXCEPTIONS**

(continued)

20. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: James Donovan Harris, et al
Purpose: Road
Recording Date: July 7, 1997
Recording No.: 97085750 of Official Records
Affects: Parcel C

Reference is hereby made to said document for full particulars.

21. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document:

Reserved by: James Donovan Harris
Purpose: Ingress and egress, water lines and electrical service to said wells
Recording Date: December 18, 1997
Recording No.: 97165665 of Official Records
Affects: Parcel C

Reference is hereby made to said document for full particulars.

22. Matters contained in that certain document

Entitled: "Covenant Regarding Maintenance of Fire Protection Facilities"
Dated: December 12, 2002
Executed by: Gwen Lee Cedar, Lora Jean Scott and Candace Lee Cedar
Recording Date: January 22, 2003
Recording No.: 2003-0015721 of Official Records

Reference is hereby made to said document for full particulars.

23. Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.

24. The fact that more than one Township Plat for Township 11 South, Range 21 East, Mount Diablo Base and Meridian, has been filed by the United States Surveyor Generals Office.

This Company has not undertaken to determine the effect, if any, of said late plan on the land described herein, and expressly excludes from the undertakings hereof any obligation as to any claim or loss arising from the effect of said later Township Plats.

25. Covenants and restrictions, if any, appearing in the public records, imposed by any land conservation contract executed to Government Code Sections 51200, et seq. (also called the Williamson Act) authorizing the establishment of agricultural preserves. The use of the land within the preserve may be restricted by the land contract to agricultural, recreational, open-space, and other compatible uses.

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**SCHEDULE B - SECTION II
EXCEPTIONS**

(continued)

26. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
27. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
28. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
29. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the land and not shown by the Public Records.
30. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the Public Records.
31. Any lien or right to a lien for services, labor or material not shown by the Public Records.

END OF SCHEDULE B - SECTION II

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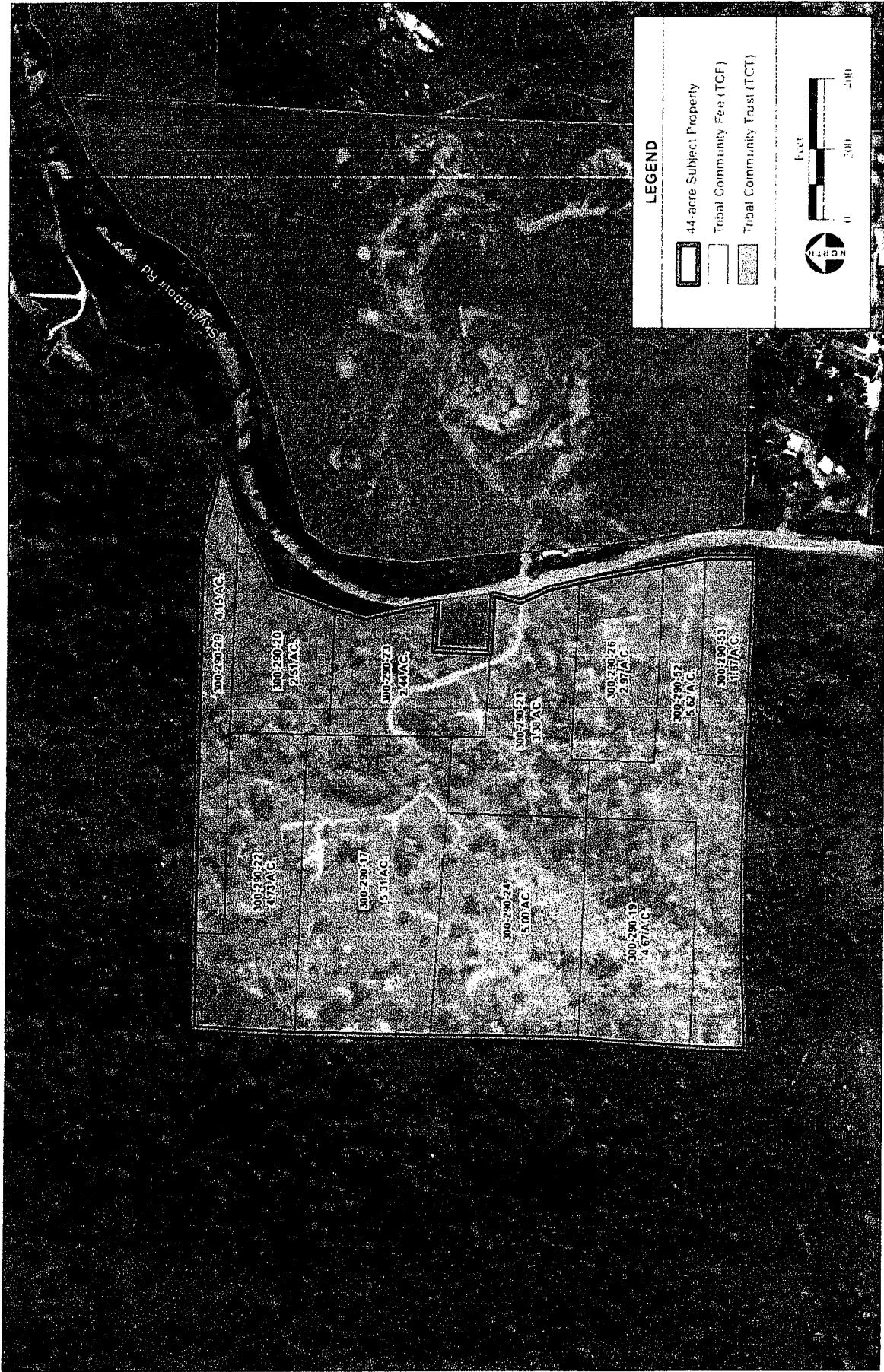
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SOURCE: Dale G. Mell & Associates, 2005, DigitalGlobe Aerial Photograph, 2011, AES, 2014

Table Mountain 44-acre Fee-to-Trust Application 208521

44-Acre Subject Property Parcel Map

Bureau of Indian Affairs, Interior

§ 151.1

Titles and Records Offices are designated as Certifying Officers for this purpose. When a copy or reproduction of a title document is authenticated by the official seal and certified by a Manager, Land Titles and Records Office, the copy or reproduction shall be admitted into evidence the same as the original from which it was made. The fees for furnishing such certified copies are established by a uniform fee schedule applicable to all constituent units of the Department of the Interior and published in 43 CFR part 2, appendix A.

§ 150.11 Disclosure of land records, title documents, and title reports.

(a) The usefulness of a Land Titles and Records Office depends in large measure on the ability of the public to consult the records contained therein. It is therefore, the policy of the Bureau of Indian Affairs to allow access to land records and title documents unless such access would violate the Privacy Act, 5 U.S.C. 552a or other law restricting access to such records, or there are strong policy grounds for denying access where such access is not required by the Freedom of Information Act, 5 U.S.C. 552. It shall be the policy of the Bureau of Indian Affairs that, unless specifically authorized, monetary considerations will not be disclosed insofar as leases of tribal land are concerned.

(b) Before disclosing information concerning any living individual, the Manager, Land Titles and Records Office, shall consult 5 U.S.C. 552a(b) and the notice of routine users then in effect to determine whether the information may be released without the written consent of the person to whom it pertains.

PART 151—LAND ACQUISITIONS

- Sec.
- 151.1 Purpose and scope.
- 151.2 Definitions.
- 151.3 Land acquisition policy.
- 151.4 Acquisitions in trust of lands owned in fee by an Indian.
- 151.5 Trust acquisitions in Oklahoma under section 5 of the I.R.A.
- 151.6 Exchanges.
- 151.7 Acquisition of fractional interests.
- 151.8 Tribal consent for nonmember acquisitions.

- 151.9 Requests for approval of acquisitions.
- 151.10 On-reservation acquisitions.
- 151.11 Off-reservation acquisitions.
- 151.12 Action on requests.
- 151.13 Title examination.
- 151.14 Formalization of acceptance.
- 151.15 Information collection.

AUTHORITY: R.S. 161; 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d-10, 1466, 1495, and other authorizing acts.

CROSS REFERENCE: For regulations pertaining to: The inheritance of interests in trust or restricted land, see parts 15, 16, and 17 of this title and 43 CFR part 4; the purchase of lands under the BIA Loan Guaranty, Insurance and Interest Subsidy program, see part 103 of this title; the exchange and partition of trust or restricted lands, see part 152 of this title; land acquisitions authorized by the Indian Self-Determination and Education Assistance Act, see parts 900 and 276 of this title; the acquisition of allotments on the public domain or in national forests, see 43 CFR part 2530; the acquisition of Native allotments and Native townsite lots in Alaska, see 43 CFR parts 2561 and 2564; the acquisition of lands by Indians with funds borrowed from the Farmers Home Administration, see 7 CFR part 1823, subpart N; the acquisition of land by purchase or exchange for members of the Osage Tribe not having certificates of competency, see §§ 117.8 and 158.54 of this title.

SOURCE: 45 FR 62036, Sept. 18, 1980, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 151.1 Purpose and scope.

These regulations set forth the authorities, policy, and procedures governing the acquisition of land by the United States in trust status for individual Indians and tribes. Acquisition of land by individual Indians and tribes in fee simple status is not covered by these regulations even though such land may, by operation of law, be held in restricted status following acquisition. Acquisition of land in trust status by inheritance or escheat is not covered by these regulations. These regulations do not cover the acquisition of

land in trust status in the State of Alaska, except acquisitions for the Metlakatla Indian Community of the Annette Island Reserve or its members.

§ 151.2 Definitions.

(a) *Secretary* means the Secretary of the Interior or authorized representative.

(b) *Tribe* means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of the Annette Island Reserve, which is recognized by the Secretary as eligible for the special programs and services from the Bureau of Indian Affairs. For purposes of acquisitions made under the authority of 25 U.S.C. 488 and 489, or other statutory authority which specifically authorizes trust acquisitions for such corporations, "Tribe" also means a corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 477) or section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503).

(c) *Individual Indian* means:

(1) Any person who is an enrolled member of a tribe;

(2) Any person who is a 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

without offering to purchase all of such interests; or

(e) The owner of a majority of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the buyer.

§ 151.8 Tribal consent for nonmember acquisitions.

An individual Indian or tribe may acquire land in trust status on a reservation other than its own only when the governing body of the tribe having jurisdiction over such reservation consents in writing to the acquisition; provided, that such consent shall not be required if the individual Indian or the tribe already owns an undivided trust or restricted interest in the parcel of land to be acquired.

§ 151.9 Requests for approval of acquisitions.

An individual Indian or tribe desiring to acquire land in trust status shall file a written request for approval of such acquisition with the Secretary. The request need not be in any special form but shall set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition comes within the terms of this part.

§ 151.10 On-reservation acquisitions.

Upon receipt of a written request to have lands taken in trust, the Secretary will notify the state and local governments having regulatory jurisdiction over the land to be acquired, unless the acquisition is mandated by legislation. The notice will inform the state or local government that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments. If the state or local government responds within a 30-day period, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply and/or request that the Secretary issue a decision. The Secretary will consider the following criteria in evaluating requests for the acquisition of land in trust status when

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the land is located within or contiguous to an Indian reservation, and the acquisition is not mandated:

(a) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(b) The need of the individual Indian or the tribe for additional land;

(c) The purposes for which the land will be used;

(d) If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by or for that individual and the degree to which he needs assistance in handling his affairs;

(e) If the land to be acquired is in unrestricted fee status, the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;

(f) Jurisdictional problems and potential conflicts of land use which may arise; and

(g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(h) The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 6, appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations. (For copies, write to the Department of the Interior, Bureau of Indian Affairs, Branch of Environmental Services, 1849 C Street NW., Room 4525 MIB, Washington, DC 20240.)

[45 FR 62036, Sept. 13, 1980, as amended at 60 FR 32879, June 23, 1995]

§ 151.11 Off-reservation acquisitions.

The Secretary shall consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation, and the acquisition is not mandated:

(a) The criteria listed in § 151.10 (a) through (c) and (e) through (h);

(b) The location of the land relative to state boundaries, and its distance from the boundaries of the tribe's res-

ervation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition. The Secretary shall give greater weight to the concerns raised pursuant to paragraph (d) of this section.

(c) Where land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use.

(d) Contact with state and local governments pursuant to § 151.10 (e) and (f) shall be completed as follows: Upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired. The notice shall inform the state and local government that each will be given 30 days in which to provide written comment as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

[60 FR 32879, June 23, 1995, as amended at 60 FR 48894, Sept. 21, 1995]

§ 151.12 Action on requests.

(a) The Secretary shall review each request and may request any additional information or justification deemed necessary to reach a decision.

(b) The Secretary's decision to approve or deny a request shall be in writing and state the reasons for the decision.

(c) A decision made by the Secretary, or the Assistant Secretary—Indian Affairs pursuant to delegated authority, is a final agency action under 5 U.S.C. 704 upon issuance.

(1) If the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

(2) If the Secretary or Assistant Secretary approves the request, the Assistant Secretary shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly publish in the FEDERAL REGISTER a notice of the decision to acquire land in trust under this part; and

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(iii) Immediately acquire the land in trust under § 151.14 on or after the date such decision is issued and upon fulfillment of the requirements of § 151.13 and any other Departmental requirements.

(d) A decision made by a Bureau of Indian Affairs official pursuant to delegated authority is not a final agency action of the Department under 5 U.S.C. 704 until administrative remedies are exhausted under part 2 of this chapter or until the time for filing a notice of appeal has expired and no administrative appeal has been filed.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of any right to file an administrative appeal under part 2 of this chapter.

(2) If the official approves the request, the official shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly provide written notice of the decision and the right, if any, to file an administrative appeal of such decision pursuant to part 2 of this chapter, by mail or personal delivery to:

(A) Interested parties who have made themselves known, in writing, to the official prior to the decision being made; and

(B) The State and local governments having regulatory jurisdiction over the land to be acquired;

(iii) Promptly publish a notice in a newspaper of general circulation serving the affected area of the decision and the right, if any, of interested parties who did not make themselves known, in writing, to the official to file an administrative appeal of the decision under part 2 of this chapter; and

(iv) Immediately acquire the land in trust under § 151.14 upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this title, and upon the fulfillment of the requirements of § 151.13 and any other Departmental requirements.

(3) The administrative appeal period under part 2 of this chapter begins on:

(i) The date of receipt of written notice by the applicant or interested parties entitled to notice under para-

graphs (d)(1) and (d)(2)(ii) of this section;

(ii) The date of first publication of the notice for unknown interested parties under paragraph (d)(2)(iii) of this section.

(4) Any party who wishes to seek judicial review of an official's decision must first exhaust administrative remedies under 25 CFR part 2.

[78 FR 67937, Nov. 13, 2013]

§ 151.13 Title examination.

If the Secretary determines that he will approve a request for the acquisition of land from unrestricted fee status to trust status, he shall acquire, or require the applicant to furnish, title evidence meeting the *Standards For The Preparation of Title Evidence In Land Acquisitions by the United States*, issued by the U.S. Department of Justice. After having the title evidence examined, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities which may exist. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to taking final approval action on the acquisition and he shall require elimination prior to such approval if the liens, encumbrances, or infirmities make title to the land unmarketable.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995]

§ 151.14 Formalization of acceptance.

Formal acceptance of land in trust status shall be accomplished by the issuance or approval of an instrument of conveyance by the Secretary as is appropriate in the circumstances.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995]

§ 151.15 Information collection.

(a) The information collection requirements contained in §§ 151.9; 151.10; 151.11(c), and 151.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0100. This information is being collected to acquire land into trust on behalf of the Indian tribes and individuals, and will be used to assist the Secretary in making a determination. Response to this request is required to obtain a benefit.