



IN REPLY REFER TO:

United States Department of the Interior

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

FEB 1 - 2013

Notice of (Non-Gaming) Land Acquisition Application

Due to an amended application and change of land use, we are issuing this notice to seek comments regarding the within subject application submitted by the Tule River Indian Tribe. This notice will supersede the two previous notices dated December 17, 2004 and October 8, 2010.

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Parts 151.10 and 151.11, notice is given of the application filed by the Tule River Indian Tribe to have real property accepted "into trust" for said applicant by the United States of America. The determination whether to acquire this property "in trust" will be made in the exercise of discretionary authority which is vested in the Secretary of the Interior, or his authorized representative, U.S. Department of the Interior. To assist us in the exercise of that discretion, we invite your comments on the proposed acquisition. In order for the Secretary to assess the impact of the removal of the subject property from the tax rolls, and if applicable to your organization, we also request that you provide the following information:

- (1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;
- (2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;
- (3) Any government services that are currently provided to the property by your organization; and
- (4) If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning.

We are providing the following information regarding this application:

Applicant:

Tule River Indian Tribe of the Tule River Reservation, California

Legal Land Description/Site Location:

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

Parcel 1:

That portion of the Southwest quarter of Section 10, Township 22 South, Range 29 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, lying Southwesterly of the center line of the County Road.

**TAKE PRIDE
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Excepting therefrom the South 10 acres in the Northwest quarter of the Southwest quarter of said Section 10.

Also excepting therefrom that portion thereof described in the Deed from Antanasia Jaramia to P. Lilinda Kings dated June 25, 1904 recorded in Book 124 Page 43 of Deeds, as follows:

Beginning at a point on the East line of Section 9, Township 22 South, Range 29 East, on the South bank of the South Tule Independent Ditch; thence South 20 rods; thence in an Easterly direction parallel with said ditch 80 rods; North 20 rods; thence Westerly along the South bank of said ditch 80 rods; to the point of beginning, 10 acres being a part of the Southwest quarter of Section 10, Township 22 South, Range 29 East Mount Diablo Base and Meridian according to the Official Plat thereof in the County of Tulare, State of California

Also excepting therefrom that portion thereof described in the Deed from Mrs. P Lilinda King, a widow to Henry M. King and Alice King Henderson, dated August 27, 1937, recorded January 7, 1943 in book 1012 Page 36 of Official Records as follows:

Beginning on the West line of the South bank of the ditch; thence East along the Ditch 80 rods; South 20 rods; West 80 rods; thence North to the point of beginning, being approximately 10 acres of land in Section 10, Township 22 South, Range 29 East, Mount Diablo Base and Meridian according to the Official Plat thereof, in the County of Tulare State of California.

Also excepting therefrom an undivided on-half interest in and to all mineral rights in said property, as reserved in the Deed from Jack Souza and Kathryn F. Souza, also known as Catherine F. Souza, husband and wife and Hazel Rocha, also known as Hazel Roche, a widow, as grantor, dated June 24, 1957 and recorded June 26, 1957 in Book 2001 Page 291 of Official Records.

APN: 305-120-006

Parcel 2:

Section 15, Township 22 south, Range East, Mount Diablo Base and Meridian according to the Official Plat thereof, in the County of Tulare, State of California.

Excepting therefrom that portion thereof conveyed to South Tule Independent Ditch Company, a Corporation, by deed dated August 13, 1911, recorded in Book 189 Page 190 of Deeds.

Also excepting therefrom that portion thereof lying North of the South line of the land described in the Deed to the County of Tulare recorded January 22, 1975 in Book 3221 Page 484 as Instrument No. 2743 of Official Records.

APN: 305-130-017

Parcel 3:

The North half of Section 22, Township 22 South Range 29 East, Mount Diablo Base and Meridian, according to the Official Plat thereof

APN: 305-130-011

Parcel 4:

Government Lots 1 and 2, in Section 23, Township 22 South, Range 29 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof.

APN: 305-130-010

Project Description/Proposed Land Use:

The land acquisition request is for four parcels of land consisting of 878.55 acres, more or less, commonly referred to as Tulare County Assessor Parcel Numbers (APN): 305-120-006, 305-130-017, 305-130-011 and 305-130-010. The subject parcels are contiguous to the Tule River Indian Reservation at the westerly boundary. Currently, the property is vacant.

The California Area Indian Health Service (IHS) and the U.S. Environmental Protection Agency (USEPA) Region 9 have provided funding for a wastewater system on the Lowe parcel in order to provide safe and reliable wastewater service to existing Tribal homes and community facilities and for future tribal residential development. Funding for the Tule River Tribe Wastewater System is provided under the American Recovery and Reinvestment Act (ARRA), the IHS regular funding and the USEPA Clean Water Act Indian Set Aside Program (IHS OEHE). The Tribe has installed the majority of force mains, gravity lines, lift stations and laterals within the Reservation. The last phase of the project includes the installation of a Membrane Biological Reactor (MBR) wastewater treatment plant and drain fields. The Tribe plans to build the wastewater treatment plant on the lower reaches of Chimney Road with the Lowe Property and inter connect the plant to the force main at BIA Road 70 and Reservation Road within the boundaries of the Tule River Indian Reservation.

The Waste Water Treatment Plan (WWTP) and disposal fields are proposed to be constructed on approximately 37 acres. The balance of the property (839.12 acres) will be used for horse pasture under the Tribe's Range Management Ordinance. No other land uses are proposed in the short-term for the property. Possible future uses (10-15 years in the foreseeable future) include up to 21-single family homes subject to appropriations under the Native American Housing and Self-Determination Act.

See Exhibits for parcel/site maps

Current Use/Taxes and Zoning:

APN: 305-120-006 - \$317.76
APN: 305-130-017 - \$7,597.32
APN: 305-130-011 - \$4,904.68
APN: 305-130-010 - \$142.14

The subject parcels are zoned agriculture, which is consistent with the current/proposed use. Assessed property taxes for 2012-2013 totaled \$12,961.19.

Existing Easements/Encumbrances:

Please refer to Exhibit "A".

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

This notice does not constitute, or replace, a notice that might be issued for the purpose of compliance with the National Environmental Policy Act of 1969.

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

If any party receiving the enclosed notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy of the 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

Attachments: Exhibit "A"
Parcel Maps

cc: Distribution List

DISTRIBUTION LIST

cc: BY CERTIFIED MAIL – RETURN RECEIPTS REQUESTED TO:

California State Clearinghouse (ten copies) – 7012 2210 0002 1441 6492
Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

Ms. Sarah J. Drake, Deputy Attorney General – 7012 2210 0002 1441 6508
State of California
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Mr. Jacob Appelsmith, Legal Affairs Secretary – 7012 2210 0002 1441 6515
Office of the Governor of California
State Capitol Building
Sacramento, CA 95814

Devin Rhinerson – 7012 2210 0002 1441 6522
U.S. Senator Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510

Tulare County Office of Public Works – 7012 2210 0002 1441 6539
291 N. Main St.
Porterville, CA 93257

Tulare County Board of Supervisors – 7012 2210 0002 1441 6546
2800 W. Burrel Avenue
Visalia, CA 93291

Tulare County Tax Assessor – 7012 2210 0002 1441 6553
221 S. Mooney Blvd., 104E
Visalia, CA 93291

Tulare County Fire Department – 7012 2210 0002 1441 6560
1968 S. Lover's Lane
Visalia, CA 93292

Tulare County Sheriff's Department – 7012 2210 0002 1441 6577
County Civic Center
Visalia, CA 93291

California Department of Forestry & Fire Protection – 7012 2210 0002 1441 6584
P.O. Box 798
Springville, CA 93265

Regular Mail:

Superintendent
Central California Agency
Bureau of Indian Affairs
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

SCHEDULE B

At the date hereof, exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy or policies would be as follows:

Taxes:

- A. General and Special City and/or County taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2012 - 2013:

1st Installment	: \$158.88 open
2nd Installment	: \$158.88 open
Land	: \$29,837.00
Improvements	: \$0
Exemption	: \$0
Code Area	: \$126-006
Assessor's Parcel No.	: 305-120-006

Said matter affects Parcel 1

- B. General and Special City and/or County taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2012 - 2013:

1st Installment	: \$3,798.66 open
2nd Installment	: \$3,798.66 open
Land	: \$713,235.00
Improvements	: \$0
Exemption	: \$0
Code Area	: \$126-001
Assessor's Parcel No.	: 305-130-017

Said matter affects Parcel 2

- C. General and Special City and/or County taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2012 - 2013:

1st Installment	: \$2,452.34 open
2nd Installment	: \$2,452.34 open
Land	: \$460,450.00
Improvements	: \$0
Exemption	: \$0
Code Area	: \$126-006
Assessor's Parcel No.	: 305-120-006

Said matter affects Parcel 3

- D. General and Special City and/or County taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2012 - 2013:

1st Installment	: \$71.07 open
2nd Installment	: \$71.07 open
Land	: \$13,348.00
Improvements	: \$0
Exemption	: \$0
Code Area	: \$126-006
Assessor's Parcel No.	: 305-120-006

Said matter affects Parcel 4

- E. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5

(commencing with Section 75) of the Revenue and Taxation Code of the State of California

- F. Assessments, if any, for Community Facility Districts affecting said land which may exist by virtue of assessment maps or notices filed by said districts. Said assessments are collected with the County Taxes.

Exceptions:

1. Unpatented mining claims; reservations or exceptions in Patents, or any act authorizing the issuance thereof; water rights, claims or title to water.
2. Lack of a right of access to and from the land.
3. Rights of the Public, County and/or City, in and to that portion of said land lying within the lines of Reservation Road and Pothole Road and any other private or Public Road
4. Any adverse claim based upon the assertion that:
 - (a) Said land or any part thereof is now or at any time has been below the highest of the high watermarks of the river hereinafter mentioned, in the event the boundary of said river has been artificially raised or is now or at any time has been below the high watermark, if said river is in its natural state.
 - (b) Some portion of said land has been created by artificial means or has accreted to such portion so created.
 - (c) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the river, or has been formed by accretion to any such portion.
Name of River: Tule River
5. Any easement for water course over that portion of said land lying within the banks of the South Fork Tule River
6. Any rights in favor of the public which may exist on said land if said land or portions thereof are or were at any time used by the public.
7. Rights and easements for navigation and fishery which may exist over that portion of said land lying beneath the waters of the river or stream above-mentioned.
8. An easement for water ditch and rights incidental thereto in favor of South Tule Independent Ditch Company as set forth in a document recorded March 16, 1896 in Book 5 Page 543 of Deed of Right of Way, affects the Southwest quarter of Section 10.
9. An easement for water ditch and rights incidental thereto in favor of South Tule Independent Ditch Company as set forth in a document recorded August 15, 1901 in Bok 103 Page 232 of Deeds, affects the Southwest quarter of Section 10.
10. An easement for right of way to lay, maintain, and operate a pipe six inches in diameter and rights incidental thereto in favor of South Tule independent Ditch Company as set forth in a document recorded December 31, 1903 in Book 118 Page 295 of Deeds, affects the Southwest quarter of Section 10.
11. The right of way to take rock and other materials to construct and maintain a dam over a portion of Section 15, as granted to the South Tule Independent Ditch Company, in a Deed recorded August 30, 1911 in Book 189 Page 190 of Deeds.

12. An easement for laying down, constructing and maintaining a steel and concrete pipe and rights incidental thereto in favor of June 22, 1928 in Book 265 Page 498 of Official Records as set forth in a document recorded June 22, 1928 in book 265 Page 498 of Official Records, affects a portion of property herein described
13. An easement for an electrical line, consisting of poles, necessary guys and anchors, cross-arms, wire and other fixtures and rights incidental thereto in favor of Southern California Edison Company as set forth in a document recorded November 28, 1961 as Instrument No. 36925, a portion of property herein described.
14. Reservations contained in a Deed from the South Tule Independent Ditch Company, to Louis Gill and Sons, Inc recorded June 4, 1962 in Book 2345 Page 189 as Instrument No. 20273 of Official Records
15. An easement for overhead and underground electrical supply systems and communication systems and rights incidental thereto in favor of Southern California Edison Company as set forth in a document recorded April 7, 1971 in Book 2960 Page 153 of Official Records, affects a portion of property herein described.
16. Covenants and restrictions imposed by a Land Conservation Contract executed pursuant to Section 51200 et. seq. California Government Code, recorded February 13, 1973 in Book 3089 Page 775 as Instrument No. 6739

A Notice of Full Nonrenewal was recorded September 22, 2005 as Instrument No. 2005-0104817.
17. An easement for stub poles, guy wires, anchors and other appurtenant fixtures and rights incidental thereto in favor of The Pacific Telephone and Telegraph Company as set forth in a document recorded May 22, 1975 in book 3243 Page 363 as Instrument No. 18976, affects a strip of land 2 feet wide through Section 15.
18. An easement for a fire control Road T9 called Pothole and Chimney Road as referred to in a document recorded in Book 3889 Page 129 as Instrument No. 37234 of Official Records, also as shown on the Tulare County Assessors Plats.
19. Matters disclosed by the Survey Plat dated December 13 2003 prepared by Lee Morales, R.C.E. # 13229 entitled "Tule River Tribal Council Harry Low Acquisition
20. Matters contained within that certain Record of Survey Map recorded November 10, 1981, in Book 13 Page 67 of Record of Surveys
21. Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby:

Amount:	\$836,750.67
Dated:	July 2, 2004
Trustor:	Tule River Tribal Council
Trustee:	Stewart Title of California, a California corporation
Beneficiary:	J. Harry Lowe, an unmarried man
Recorded:	July 14, 2004 as Instrument No. 2004-069406
Loan No.:	none shown
22. Water rights, claims or title to water in or under said land, whether or not shown by the public records.

23. Matters which may be disclosed by an inspection or by a survey of said land satisfactory to this Company, or by inquiry of the parties in possession thereof.
24. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
25. This office will require the following items for review prior to the close of this transaction.
 1. **The full name of the tribe or organization**
 2. **A full copy of the charter or constitution, all amendments and current by-laws and a resolution.**
 3. **Statement that no other entity exists within the tribe with the same or similar name**

(End of Exceptions)

SEC'S 15 TO 17 & 20 TO 22 & POR SEC'S 14 & 23, T22S, R29E, MDB, 8M.

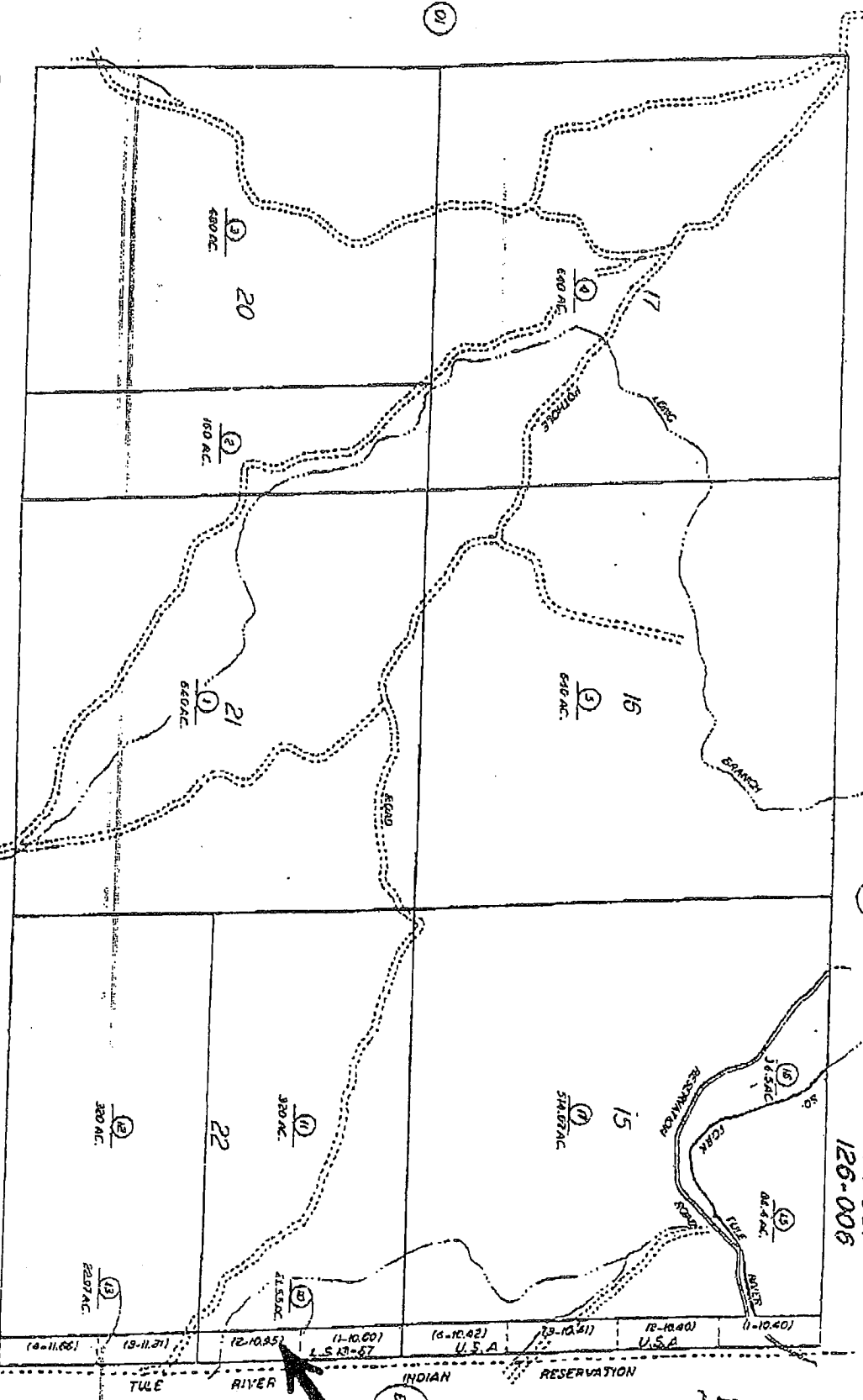
TAX CODE AREA

305-13

126-001

64-001

126-006



POR. RECORD OF SURVEY, L.S. 13-67

ASSESSOR'S MAPS BK. 305, PG. 13
COUNTY OF TULARE, CALIF.

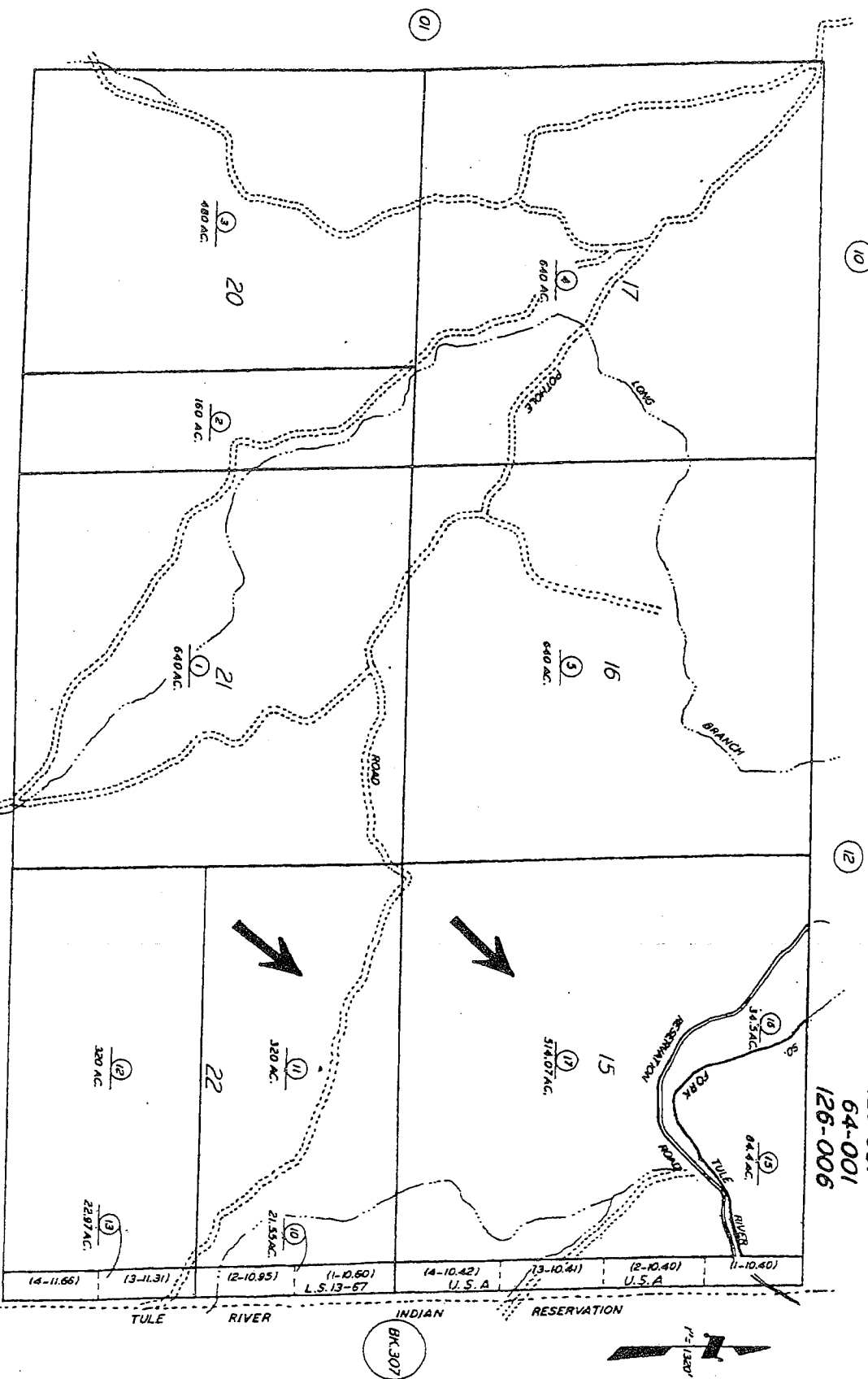
NOTE - ASSESSOR'S BLOCK NUMBERS SHOWN IN SQUARES
ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES

"Notice: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon."

07/2004 13:22 5597855610

SEC'S 15 TO 17 & 20 TO 22 & POR. SEC'S 14 & 23, T.22S., R.29E., MDB & M.

TAX CODE AREA 305-13
 126-001
 64-001
 126-006



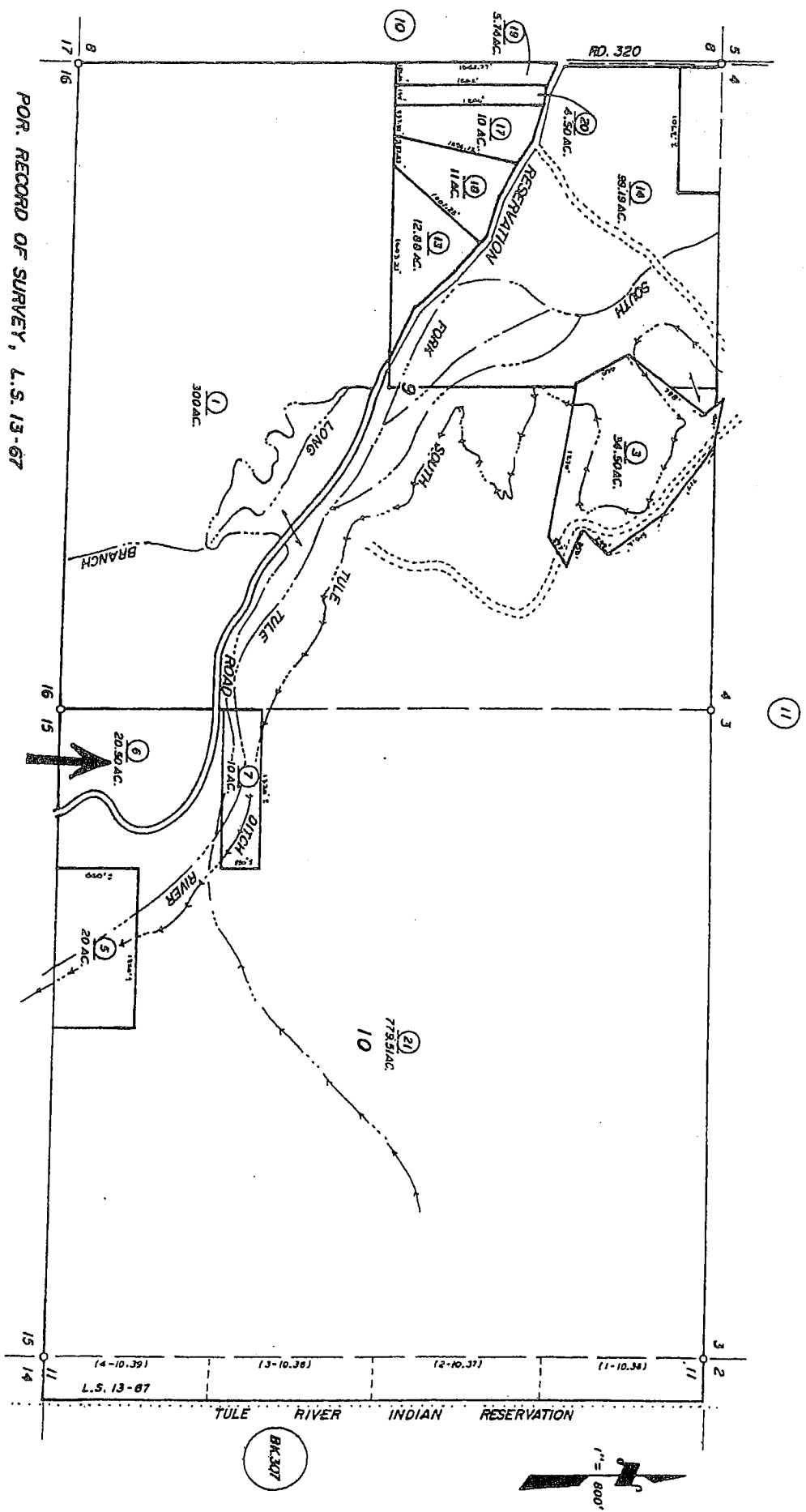
POR. RECORD OF SURVEY, L.S. 13-67

ASSESSOR'S MAPS BK. 305, PG. 13

COUNTY OF TULARE, CALIF.

NOTE - ASSESSOR'S BLOCK NUMBERS SHOWN IN ELLIPSES
 ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES

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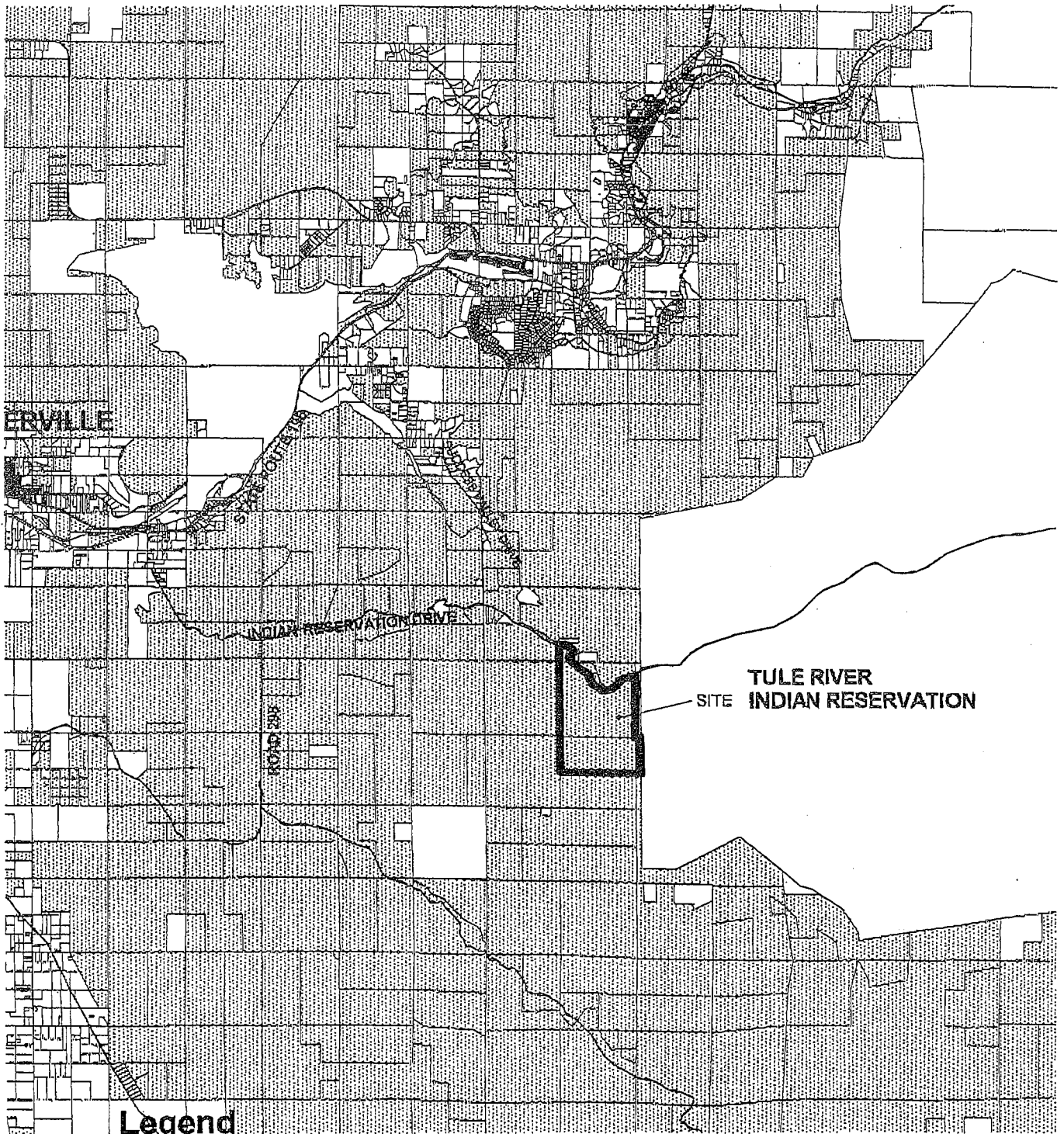
POR. RECORD OF SURVEY, L.S. 13-67

ASSESSOR'S MAPS BK. 305, PG. 12
COUNTY OF TULARE, CALIF.




NOTE--ASSESSOR'S BLOCK NUMBERS SHOWN IN ELLIPSES
ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES

Notice: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon.

General Plan Land Trust Proposal



Legend

	Site
	Parcels
	Agriculture Extensive

1 0 1 2 Miles



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 §§ 117.3 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

§ 151.4

land in trust or restricted status, land may be acquired for an individual Indian in trust status:

(1) When the land is located within the exterior boundaries of an Indian reservation, or adjacent thereto; or

(2) When the land is already in trust or restricted status.

§ 151.4 Acquisitions in trust of lands owned in fee by an Indian.

Unrestricted land owned by an individual Indian or a tribe may be conveyed into trust status, including a conveyance to trust for the owner, subject to the provisions of this part.

§ 151.5 Trust acquisitions in Oklahoma under section 5 of the I.R.A.

In addition to acquisitions for tribes which did not reject the provisions of the Indian Reorganization Act and their members, land may be acquired in trust status for an individual Indian or a tribe in the State of Oklahoma under section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465), if such acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

§ 151.6 Exchanges.

An individual Indian or tribe may acquire land in trust status by exchange if the acquisition comes within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

§ 151.7 Acquisition of fractional interests.

Acquisition of a fractional land interest by an individual Indian or a tribe in trust status can be approved by the Secretary only if:

(a) The buyer already owns a fractional interest in the same parcel of land; or

(b) The interest being acquired by the buyer is in fee status; or

(c) The buyer offers to purchase the remaining undivided trust or restricted interests in the parcel at not less than their fair market value; or

(d) There is a specific law which grants to the particular buyer the right to purchase an undivided interest or interests in trust or restricted land

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without offering to purchase all of such interests; or

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

§ 151.8 Tribal consent for nonmember acquisitions.

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

§ 151.9 Requests for approval of acquisitions.

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

§ 151.10 On-reservation acquisitions.

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

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

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

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

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

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

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

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

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

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

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

§ 151.11 Off-reservation acquisitions.

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

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

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

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

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

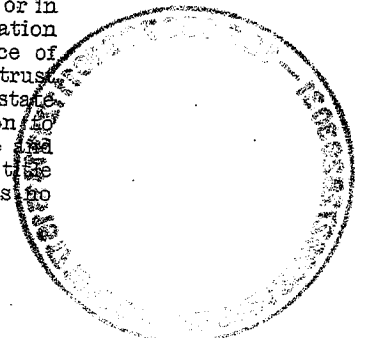
(d) Contact with state and local governments pursuant to § 151.10 (e) and (f) shall be completed as follows: Upon receipt of a tribe's written request to have lands taken in trust, the Secretary shall notify the state and local governments having regulatory jurisdiction over the land to be acquired.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

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

§ 151.12 Action on requests.

(a) The Secretary shall review all requests and shall promptly notify the applicant in writing of his decision. The Secretary may request any additional information or justification he considers necessary to enable him to reach a decision. If the Secretary determines that the request should be denied, he shall advise the applicant of that fact and the reasons therefor in writing and notify him of the right to appeal pursuant to part 2 of this title.

(b) Following completion of the Title Examination provided in § 151.13 of this part and the exhaustion of any administrative remedies, the Secretary shall publish in the FEDERAL REGISTER, or in a newspaper of general circulation serving the affected area a notice of his/her decision to take land into trust under this part. The notice will state that a final agency determination to take land in trust has been made and that the Secretary shall acquire the land in the name of the United States to



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sooner than 30 days after the notice is published.

[45 FR 62036, Sept. 18, 1980. Redesignated at 60 FR 32879, June 23, 1995, as amended at 61 FR 18083, Apr. 24, 1996]

§ 151.13 Title examination.

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

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

§ 151.14 Formalization of acceptance.

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

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

§ 151.15 Information collection.

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

(b) Public reporting for this information collection is estimated to average _____ hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information

collection. Direct comments regarding the burden estimate or any other aspect of this information collection to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 337-S1B, 18th and C Streets, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Project 1076-0100], Office of Management and Budget, Washington, DC 20502.

[60 FR 32879, June 23, 1995; 64 FR 13895, Mar. 23, 1999]

PART 152—ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

Sec.

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