

FEE-TO-TRUST APPLICATION

**UNITED AUBURN INDIAN COMMUNITY OF THE
AUBURN RANCHERIA OF CALIFORNIA
CENTRAL PROPERTY**

APNs 040-300-015-000, 040-310-006-000

JULY 2012

SUBMITTED TO:
U.S. Department of the Interior
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825



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UNITED AUBURN INDIAN COMMUNITY OF THE AUBURN RANCHERIA OF CALIFORNIA

UAIC PARK FEE-TO-TRUST APPLICATION

I. BACKGROUND AND LAND DATA

The federal recognition of the United Auburn Indian Tribe (Tribe) began when the Department of Interior documented the existence of a separate, cohesive band of Maidu and Miwok Indians, occupying a village on the outskirts of the City of Auburn in Placer County. In 1917, the United States acquired land in trust for the Auburn Band near the City of Auburn and formally established a 20-acre reservation, known as the Auburn Rancheria. An additional 20-acre parcel was brought into trust for the Tribe in 1953, bringing the total size of the Rancheria to 40 acres. Tribal members continued to live and gather on the Rancheria as a community throughout the 20th century.

Beginning in 1953, the United States Congress enacted several statutes designed to assimilate Indians into "mainstream" America. These directives culminated in the 1958 "Rancheria Act," authorizing the termination of federal trust responsibilities to a number of California Indian tribes including the Auburn Band. The United States terminated federal recognition of the Auburn Band in 1967. With the exception of 2.8 acres containing a Tribal church and a park, the government divided and allotted the land comprising the Auburn Rancheria to individual Tribal members (distributees). A Tribal organization, the White Oak Ridge Association, was formed to hold title to and administer the lands containing the community church, park, and Rancheria water system.

In 1970, President Nixon declared the policy of termination a failure. In 1976, both the United States Senate and House of Representatives expressly repudiated this policy in favor of a new federal policy entitled Indian Self-Determination. In 1991, surviving members of the Auburn Band reorganized their Tribal government as the United Auburn Indian Community (UAIC) of the Auburn Rancheria of California and requested the United States to formally restore their federal recognition. In 1994, Congress passed H.R. 4228, the Auburn Indian Restoration Act (Act), which restored the Tribe's federal recognition.

The Act provides statutory authority for the Secretary of the Interior (Secretary) to take land into trust for the UAIC to establish a new reservation. Under conditions agreed upon through a Memorandum of Understanding (MOU) with Placer County, two parcels of land have been acquired and brought into federal trust for the Tribe; however, neither of these parcels is located within the historic Auburn Rancheria, where many Tribal members continue to live and gather.

Through this application, the United Auburn Indian Community of the Auburn Rancheria of California requests that the United States bring into trust two parcels of land totaling approximately 3.35 acres,

owned in fee simple by the Tribe and located within the historic Auburn Rancheria. The subject property has two Placer County assessors' parcel numbers (APNs): 040-300-015-000 (1.64-acres) and 040-310-006-000 (1.71-acres). Two maps depicting the location and setting of the property are provided as **Exhibit 1**.

The proposed trust property is located within the City of Auburn's sphere of influence in unincorporated Placer County. The parcels are situated in the center of the historic Auburn Rancheria, near the intersection of Indian Rancheria Road and Folsom-Auburn Road. Surrounding land uses include residential lots, undeveloped land, a park, and a church.

The Tribe's goal is to reclaim and maintain the lands of the historic Auburn Rancheria for future generations. In addition, the UAIC Tribal Government seeks to exercise sovereign authority over land it owns. Owning the 3.35-acre property in fee title does not allow the exercise of complete sovereign authority by the Tribal Government.

II. TRIBAL ACTION

The United Auburn Indian Community of the Auburn Rancheria of California is a federally recognized Indian Tribe, possessing sovereign powers by virtue of such recognition. The Tribe is subject to all laws and regulations of general application to Indians or nations, tribes, or bands of Indians, and is eligible for all Federal services and benefits furnished to federally recognized Indian tribes, as described in H.R. 4228, the Auburn Indian Restoration Act (**Exhibit 2**). The Federal Register Volume 73, Number 66, containing the list of federally recognized tribes including the UAIC, is attached as **Exhibit 3**.

By Tribal Resolution No. 11-22-11-01, the UAIC Tribal Council, as the official governing body of the Tribe, has authorized the drafting of this Fee-to-Trust Application for the fee property identified above by its two APNs. The Tribal Resolution also authorizes the submission of this Fee-to-Trust Application to the Bureau of Indian Affairs (BIA), requesting that the Secretary accept the aforementioned land into trust for the benefit of the Tribe, thereby re-establishing this portion of the historic Auburn Rancheria as the Tribe's reservation (**Exhibit 4**). This conveyance of the property into federal trust is herein referred to as the Proposed Action.

III. COMPLIANCE WITH 25 CFR PART 151 CRITERIA

The following information is submitted to the BIA to facilitate the review and consideration of the Tribe's request to take the 3.35-acre subject property into trust for the benefit of the Tribe.

25 CFR § 151.3: Land Acquisition Policy

Under the Secretary's land acquisition policy in 25 CFR § 151.3 there are two threshold requirements for obtaining trust land. The first is that the request must be made by a federally recognized Indian Tribe or Individual. As described above, the UAIC is recognized by the Secretary as eligible to receive special programs and services from the BIA, including the right to have land accepted into trust. Second, the property must satisfy at least one of three conditions described in the provisions of 25 CFR § 151.3(a). These conditions are as follows:

1. The property must be located within or adjacent to the exterior boundaries of the Tribe's reservation or within a Tribal consolidation area; or
2. The Tribe already owns an interest in the property; or
3. When the Secretary determines that the acquisition of the property is necessary to facilitate the Tribe's self-determination, economic development, or development of Tribal housing.

The UAIC's request refers to property that was originally within the exterior boundaries of the Tribe's reservation when it was designated in the early 20th century. Because of the subsequent termination of federal trust responsibilities to the UAIC in 1967, this status was lost. However, as per 25 CFR § 151.2(h), the definition of the Tribe's reservation can include former lands: "...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." Therefore, the conditions of 25 CFR § 151.3(a) (1) are satisfied. Because the Tribe holds title to the property in fee simple through the federal government's allotment of the property to the White Oak Ridge Association prior to termination, the conditions of 25 CFR § 151.3(a) (2) are also satisfied. Furthermore, federal trust status for the property would ensure that the Tribe could exercise sovereign governmental authority over the parcels, thereby facilitating self-determination as per the conditions of 25 CFR § 151.3(a) (3).

25 CFR § 151.10(a): Statutory Authority

This application is pursuant to Section 4 of the Auburn Indian Restoration Act (H.R. 4228), which authorizes the Tribe to acquire land in Placer County to establish a new reservation, and directs the Secretary of the Interior to accept land into federal trust for the benefit of the Tribe. Section 4 (b) of the Act specifically directs the Secretary to consider eligible for trust status "fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959..." Although H.R. 4228 § 4 (b) includes the word "shall" in reference to the Secretary's responsibility to take former Rancheria lands into trust for the Tribe, this Proposed Action is not considered a Mandatory Trust Acquisition because no restrictions are placed on the Secretary's discretion to accept the land into trust, as per the definition in the

Department of the Interior's *Acquisition of Title to Land Held in Fee or Restricted Fee* BIA Handbook, 2008: "In order for a statute to be considered mandatory, the statutory language must include some restrictions on the Secretary's discretion in addition to the word 'shall.'" Therefore, the Proposed Action is considered a Discretionary Trust Acquisition, requested under 25 CFR § 151.10 for lands located within or contiguous to an Indian Reservation.

25 CFR § 151.10(b): Tribal Need for Additional Land

Current reservation lands held in federal trust for the UAIC include a 49-acre parcel located between the communities of Roseville and Lincoln, and a 1,100-acre parcel near the community of Sheridan. Both these properties are within unincorporated areas of Placer County, and were obtained pursuant to the statutory authority of H.R. 4228 and in accordance with the MOU signed between the Tribe and Placer County on January 18, 2000 (amended 2004). The 49-acre site contains a gaming facility, Thunder Valley Casino, developed by the Tribe pursuant to a 1999 gaming compact with the State of California and the Tribal-County MOU. The 1,100-acre parcel was taken into trust for future development of Tribal housing and various community facilities; however, construction of these facilities has not yet begun as of the date of this application, and the land remains largely undeveloped.

The conveyance of the 3.35-acre UAIC Central property into trust will allow the Tribe to restore the federal status of a portion of the historic Auburn Rancheria, thereby reestablishing its traditional land base. The trust conveyance will allow the UAIC Council to exercise tribal sovereign authority over the land, strengthening self-determination and self-governance. Trust status for the property will also protect and enhance the wellbeing of UAIC Tribal members and resources within the historic Auburn Rancheria, and preserve the integrity of the Tribe's traditional reservation for future generations.

25 CFR § 151.10(c): Purpose for Which the Land will be Used

The subject property is currently undeveloped and has historically been an informal place of gathering and recreation for Tribal members living on or near the historic Auburn Rancheria. These activities would be continued under the Proposed Action; no additional development or change in land use would occur.

25 CFR § 151.10 (e): Impact on the State and its Political Subdivisions Resulting from the Removal of the Land from the Tax Rolls

The Proposed Action would remove the project parcels totaling approximately 3.35 acres from the County's property tax rolls (**Exhibit 5**). No property taxes have been assessed for the property in recent years, although Placer County plans to begin filing an assessment for the property in 2010¹. 2009/2010 assessed taxes for APNs 040-310-006 and 040-300-015 totaled \$1,803.30. Under the MOU between the

¹ Personal communication via e-mail between Ms. Amber Quezada, UAIC Operations Manager, and Dr. Shelley McGinnis of AES, regarding property taxes paid for community park property. November 20, 2009.

Tribe and Placer County, the Tribe will continue to pay an annual in-lieu fee equivalent to the assessed taxes on the subject property after it is placed into federal trust.

Approximately \$794.4 million in property taxes was paid to the Placer County Tax Collector for the 2008/2009 tax year (Placer County Treasurer-Tax Assessor, 2009). The County will receive an annual in-lieu fee from the Tribe equivalent to the assessed property taxes for the proposed trust property, as per the MOU signed in 2000 and amended in 2004. The County would not experience any impacts from the transfer of the subject property into federal trust.

No existing retail or other commercial activity occurs on the subject property, nor are there plans for any such use to be developed. The State would not lose any sales or use tax revenues if the property were placed into federal trust status.

25 CFR 151.10(f): Jurisdictional Problems or Conflicts Which May Arise as a Result of Intended Land Use and Removal of State and Local Jurisdiction

Land uses surrounding the subject property consist primarily of residential development of varying densities, with UAIC governmental offices, a church, a park, and a school located nearby. The closest incorporated community to the proposed trust property is the City of Auburn, which has annexed lands surrounding the historic Rancheria. The Tribe has signed an agreement with the City of Auburn for provision of municipal water and sewer services through underground facilities installed in Indian Rancheria Road. Currently the proposed trust property is undeveloped. Conveyance of the property to federal trust status would not result in any changes in land uses either on or in the vicinity of the subject property. Land use activities on the subject property and surrounding areas are currently regulated by the Auburn-Bowman Community Plan (1994, updated 1999) and the City of Auburn General Plan (1993). According to the Land Use Element of the Auburn-Bowman Community Plan, the subject property and other parcels within the historic Auburn Rancheria are designated as Residential areas, with zoning as Residential Single-Family, and Agriculture (RS-AG-B-20). The current use of the property is compatible with this zoning, which allows for parks and playgrounds with the approval of a minor use permit. Parcels surrounding the Rancheria within the incorporated City of Auburn are zoned for Residential (RS) development of varying densities.

The acceptance of the property into federal trust status for the benefit of the Tribe would remove the property from jurisdiction of State and local laws concerning the environment, health and safety, and labor. The Tribe would govern these activities after the property is taken into trust. The land is presently subject to the full civil/regulatory and criminal/prohibitory jurisdiction of the State of California and Placer County. Under Public Law 280, the State of California and other local law enforcement agencies will continue to have criminal enforcement authority once the land is accepted into trust and becomes part of the Tribe's reservation. The Placer County Sheriff's Department would continue to provide law enforcement services to the subject property, and any criminal prosecutions of offenses committed on the

proposed trust lands would occur in State courts. Fire protection and primary emergency medical care would continue to be provided by the Newcastle Fire Protection District.

Jurisdictional problems or conflicts as a result of acquisition of the property in trust for the Tribe would not occur. The existing and proposed uses for the subject property are compatible with existing and potential future land uses in the vicinity of the site. No adverse land use impacts would occur as a result of removing the property from state and local jurisdiction. Through the MOU with Placer County and other agreements with various municipalities and public service agencies, the Tribe has established excellent working government-to-government relationships with local jurisdictions. Placer County has agreed to support the Tribe in its efforts to have the community lands of the historic Auburn Rancheria restored to federal trust status through the Proposed Action. The Tribe will continue to work with local communities, municipalities, and area residents to address any concerns which may arise.

25 CFR § 15 1(g): Impact Upon Services Currently Provided by BIA or What BIA Services will be Requested or Required if the Application is Approved

Accepting the property into trust is not anticipated to impose any significant additional burdens on the BIA beyond those Federal services and benefits enumerated in H.R. 4228 as BIA's inherent responsibilities toward the Tribe. The Tribe has continued to work towards Tribal self-determination, and will remain primarily responsible for providing services to its Tribal members.

25 CFR § 151.10 (h): Information that will allow for compliance with 516 DM 6 appendix 4, National Environmental Policy Act Revised Implementing Procedures and 602 DM2, Land Acquisitions: Hazardous Substances Determinations

A Level I Contaminant Survey for the subject property was completed in April 2011 to comply with the pre-acquisition environmental site assessment requirement in Part 602 of the Departmental Manual. That survey confirmed that no signs of gross contamination, bulk generation, and/or bulk chemical storage were observed at the site. A Phase I Environmental Site Assessment of the Property is included as **Appendix C** of the Environmental Overview (EO) which has been prepared for compliance with the National Environmental Policy Act (NEPA).

25 CFR § 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.

In accordance with this requirement, the Tribe submits Title Evidence in the form of a U.S. ALTA Policy Commitment for each parcel (APNs 040-310-006 and 040-300-015) issued by Placer Title Company, attached hereto as **Exhibit 6**. Records of any exceptions to title specifically enumerated in the Policy Commitment are also contained in **Exhibit 6**. An ALTA survey dated April 5, 2005 is attached hereto as **Exhibit 7**. Placer Title Company is authorized by law to prepare title insurance policies in the State of

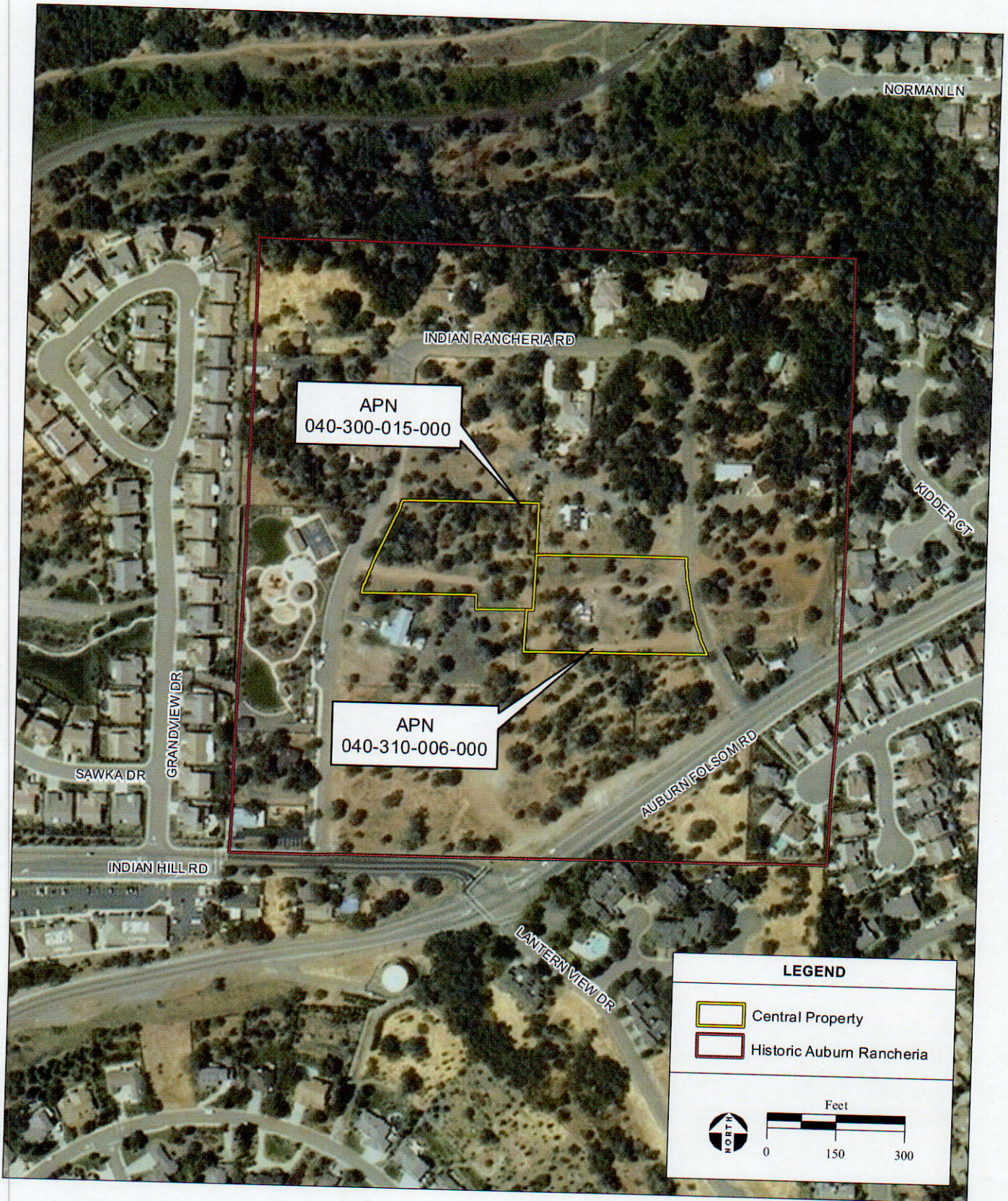
California. A Tribal Resolution (11-22-11-02) regarding the acceptability of the exceptions to title is included in **Exhibit 8**. A summary of each exhibit and relevant federal regulations is provided in **Table 1** and exhibits are provided on the following pages.

TABLE 1
Summary of Exhibits for Fee-to-Trust Application

Exhibit	Description	Relevant Regulations
1	Maps of Proposed Trust Property	25 CFR §151.3 (a) (1)
2	H.R. 4228: Auburn Indian Restoration Act	25 CFR §151.3, 25 CFR §151.10 (a)
3	Federal Register Volume 73, Number 66	25 CFR §151.3, 25 CFR §151.10 (a)
4	Tribal Resolution 11-22-11-01 authorizing preparation and submission of the Fee-to-Trust Application to the BIA	25 CFR §151.10 (a)
5	Parcel Tax information	25 CFR §151.10 (e)
6	US ALTA Policy Commitment and Exceptions to Title, issued by Placer Title Company	25 CFR §151.13
7	ALTA Survey	25 CFR §151.13
8	Tribal Resolution 11-22-11-02 regarding exceptions to Title	25 CFR §151.13

IV CONCLUSION

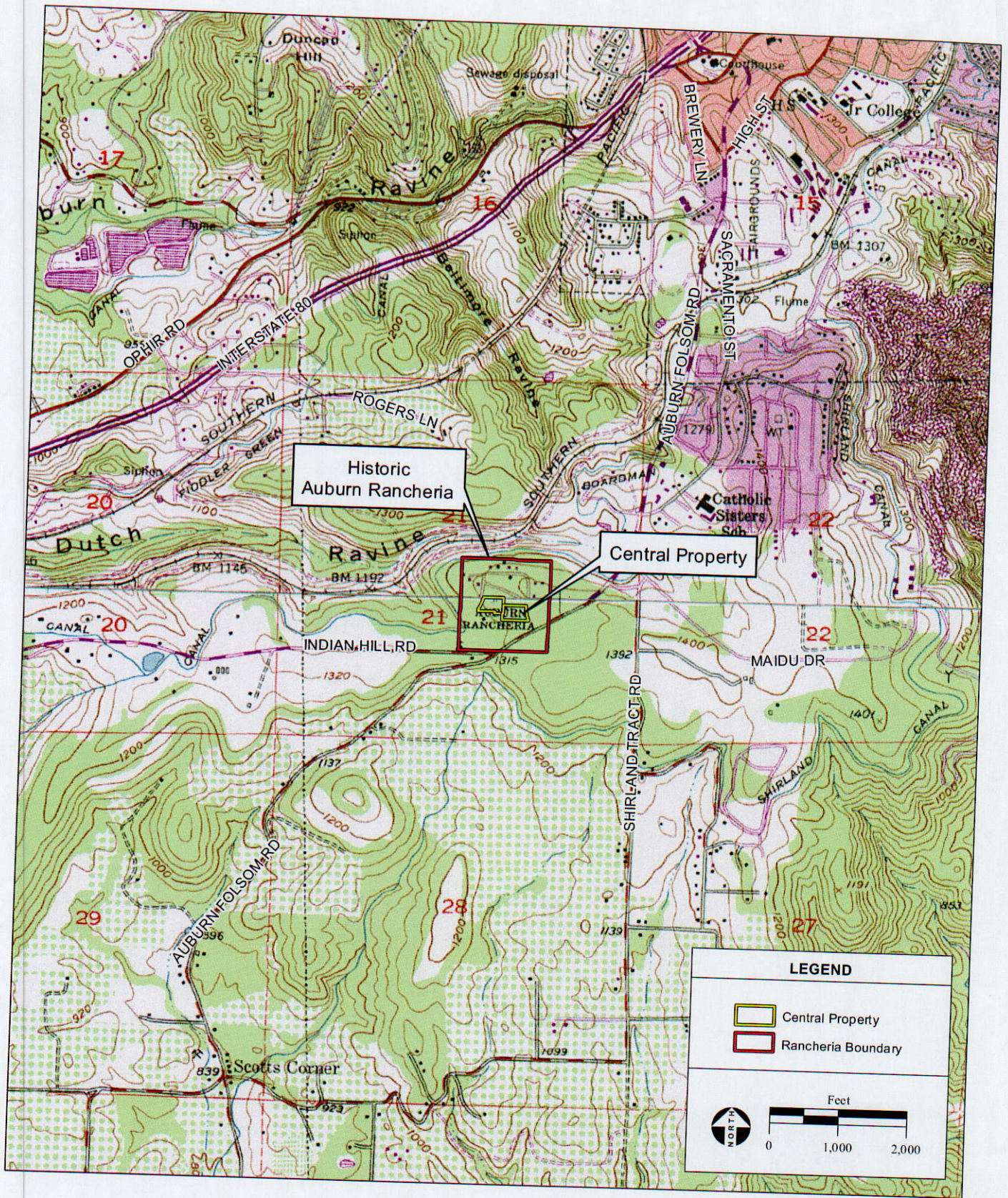
For all the reasons set forth above, the UAIC respectfully requests that this land be accepted into Federal trust status and declared a part of the restored Auburn Rancheria.



SOURCE: USDA FSA Aerial Photograph, 7/3/2009

UAIC Rancheria Central Property Fee-To-Trust Application ■

Figure 1-B
Aerial Photograph



SOURCE: "Auburn, CA" & "Pilot Hill, CA" USGS 7.5 Minute Topographic Quadrangles, Section 21, T12N, R8E, Mt. Diablo Baseline & Meridian

UAIC Rancheria Central Property Fee-To-Trust Application ■

Figure 1-A
Site and Vicinity