



## United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Pacific Regional Office  
2800 Cottage Way, Room W-2820  
Sacramento, CA 95825

COSD CLERK OF THE BOARD  
2022 AUG 26 AM 10:28

IN REPLY REFER TO

Real Estate Services  
TR-4609-P5

Case Number: 30039

### 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 Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California (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 her 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:**

Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California

#### **Legal Land Description/Site Location:**

REAL PROERTY SITUATED IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA  
DESCRIBED AS FOLLOWS:

THAT PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 21,  
TOWNSHIP 14 SOUTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN,  
ACCORDING TO UNITED STATES GOVERNMENT DEPENDENT RESURVEY APPROVED

JANUARY 21, 1939, ACCORDING TO LICENSED SURVEYORS MAP NO. 191, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, AUGUST 11, 1919, DESCRIBED AS FOLLOWS:

COMMENCING AT CORNER NO. 2 OF RANCHO BARONA, ACCORDING TO SAID LICENSED SURVEYOR'S MAP NO. 191; THENCE ALONG THE WESTERLY BOUNDARY OF SAID RANCHO BARONA, SOUTH 20°14 '00" WEST, 850.00 FEET; THENCE DUE WEST 570.00 TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°44'08" WEST 300.00 FEET; THENCE SOUTH 0°15'52" WEST 300.00 FEET; THENCE SOUTH 89°44'08" EAST 300.00; THENCE NORTH 0°15'52"EAST 300.00 FEET TO THE TRUE POINT OF BEGINNING.

**Project Description/Proposed Land Use:**

The subject property consists of one parcel of land containing 2.07 acres, more or less, commonly referred to as the Miller property and Assessor's Parcel Number 329-060-04-00. The parcel is within the exterior boundaries of the Barona Indian Reservation and surrounded by trust lands. It has no ingress or egress, except across reservation land. There has been no development on the property other than a dirt road running across the land. The Tribe has no plans to change the use of the property.

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. Additionally, copies of all comments will be provided to the applicant for a response. You will be notified of the decision to approve or deny the application.

If any party receiving this notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy to 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 the Pacific Regional Office attention Lorrae Russell, Realty Specialist, (916) 978-6071.

Sincerely,

AMY

DUTSCHKE

Digitally signed by  
AMY DUTSCHKE  
Date: 2022.08.17  
15:23:17 -07'00'

Regional Director

Enclosures

cc: Distribution List

CC:

BY CERTIFIED MAIL:

SENIOR ADVISOR FOR TRIBAL NEGOTIATIONS  
DEPUTY LEGAL AFFAIRS SECRETARY  
OFFICE OF THE GOVERNOR  
STATE CAPITOL BUILDING, SUITE 1173  
SACRAMENTO, CA 95814  
Certified Mail ID: 7019 0700 0001 7354 1652

SARA DRAKE, DEPUTY ATTORNEY GENERAL  
STATE OF CALIFORNIA  
DEPARTMENT OF JUSTICE  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2250  
Certified Mail ID: 7019 0700 0001 7354 2123

UNITED STATES SENATOR DIANNE FEINSTEIN  
331 HART SENATE BUILDING  
WASHINGTON, DC 20510  
Certified Mail ID: 7017 2680 0000 6244 4692

UNITED STATES SENATOR ALEX PADILLA  
B03 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
Certified Mail ID: 7017 2680 0000 6244 4633

SAN DIEGO COUNTY ASSESSOR  
1600 PACIFIC HIGHWAY, SUITE 103  
SAN DIEGO, CA 92101  
Certified Mail ID: 7017 2680 0000 6244 4630

SAN DIEGO COUNTY TREASURER & TAX COLLECTOR  
1600 PACIFIC HIGHWAY, SUITE 162  
SAN DIEGO, CA 92101-2480  
Certified Mail ID: 7017 2680 0000 6244 4647

COUNTY OF SAN DIEGO BOARD OF SUPERVISORS  
1600 PACIFIC HIGHWAY, ROOM 335  
SAN DIEGO, CA 92101  
Certified Mail ID: 7017 2680 0000 6244 4654

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT  
JOHN F. DUFFY ADMINISTRATIVE CENTER  
P.O. BOX 939062  
SAN DIEGO, CA 92193  
Certified Mail ID: 7017 2680 0000 6244 4661



SAN DIEGO COUNTY DEPARTMENT OF PUBLIC WORKS  
5510 OVERLAND AVE., SUITE 410  
SAN DIEGO, CA 92123  
Certified Mail ID: 7017 2680 0000 6244 4678

SAN DIEGO COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT  
5510 OVERLAND AVE., SUITE 110  
SAN DIEGO, CA 92123  
Certified Mail ID: 7017 2680 0000 6244 4685

SAN DIEGO COUNTY FIRE - ADMINISTRATIVE OFFICE  
COUNTY OPERATIONS CENTER  
5510 OVERLAND AVENUE, SUITE 250  
SAN DIEGO, CA 92123  
Certified Mail ID: 7021 2720 0001 0165 5010

COUNTY OF SAN DIEGO OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER  
1600 PACIFIC HIGHWAY, ROOM 209  
SAN DIEGO, CA 92101  
Certified Mail ID: 7021 2720 0001 0165 5027

BARONA GROUP OF CAPITAN GRANDE BAND OF MISSION INDIANS  
OF THE BARONA RESERVATION, CALIFORNIA  
1095 BARONA ROAD  
LAKESIDE, CA 92040  
Certified Mail ID: 7021 2720 0001 0165 5034

CAMPO BAND OF DIEGUENO MISSION INDIANS  
OF THE CAMPO INDIAN RESERVATION, CALIFORNIA  
36190 CHURCH ROAD, SUITE 1  
CAMPO, CA 91906  
Certified Mail ID: 7021 2720 0001 0165 5041

EWIIAAPAYP BAND OF KUMEYAAY INDIANS, CALIFORNIA  
4054 WILLOWS ROAD  
ALPINE, CA 91901  
Certified Mail ID: 7021 2720 0001 0165 5058

JAMUL INDIAN VILLAGE OF CALIFORNIA  
P.O. BOX 612  
JAMUL, CA 91935  
Certified Mail ID: 7021 2720 0001 0165 5065

LA JOLLA BAND OF LUISENO INDIANS, CALIFORNIA  
22000 HIGHWAY 76  
PAUMA VALLEY, CA 92061  
Certified Mail ID: 7021 2720 0001 0165 5072



LA POSTA BAND OF DIEGUENO MISSION INDIANS  
OF THE LA POSTA INDIAN RESERVATION, CALIFORNIA  
8 CRESTWOOD ROAD  
BOULEVARD, CA 91905  
Certified Mail ID: 7021 2720 0001 0165 5089

LOS COYOTES BAND OF CAHUILLA & CUPENO INDIANS, CALIFORNIA  
P.O. BOX 189  
WARNER SPRINGS, CA 92086  
Certified Mail ID: 7021 2720 0001 0165 5096

MANZANITA BAND OF DIEGUENO MISSION INDIANS OF THE  
MANZANITA RESERVATION, CALIFORNIA  
P.O. BOX 1302  
BOULEVARD, CA 91905  
Certified Mail ID: 7021 2720 0001 0165 5102

MESA GRANDE BAND OF DIEGUENO MISSION INDIANS  
OF THE MESA GRANDE RESERVATION, CALIFORNIA  
P.O. BOX 270  
SANTA YSABEL, CA 92070  
Certified Mail ID: 7021 2720 0001 0165 5119

PECHANGA BAND OF LUISENO MISSION INDIANS  
OF THE PECHANGA RESERVATION, CALIFORNIA  
P.O. BOX 1477  
TEMECULA, CA 92593  
Certified Mail ID: 7021 2720 0001 0165 5126

RINCON BAND OF LUISENO MISSION INDIANS  
OF THE RINCON RESERVATION, CALIFORNIA  
ONE GOVERNMENT CENTER LANE  
VALLEY CENTER, CA 92082  
Certified Mail ID: 7021 2720 0001 0165 5133

SAN PASQUAL BAND OF DIEGUENO MISSION INDIANS OF CALIFORNIA  
P.O. BOX 365  
VALLEY CENTER, CA 92082  
Certified Mail ID: 7021 2720 0001 0165 5140

IIPAY NATION OF SANTA YSABEL, CALIFORNIA  
P.O. BOX 130  
SANTA YSABEL, CA 92070  
Certified Mail ID: 7021 2720 0001 0165 5157

SYCUAN BAND OF KUMEYAAY NATION  
1 KWAAYPAAAY COURT  
EL CAJON, CA 92019  
Certified Mail ID: 7021 2720 0001 0165 5164

VIEJAS (BARON LONG) GROUP OF CAPITAN GRANDE BAND OF  
MISSION INDIANS OF THE VIEJAS RESERVATION, CALIFORNIA  
P.O. BOX 908  
ALPINE, CA 91901  
Certified Mail ID: 7021 2720 0001 0165 5171

PALA BAND OF MISSION INDIANS  
35008 PALA-TEMECULA ROAD  
PMB-50  
PALA, CA 92059  
Certified Mail ID: 7021 2720 0001 0165 5188

BY FIRST CLASS MAIL:

INAJA BAND OF DIEGUENO MISSION INDIANS  
OF THE INAJA AND COSMIT RESERVATION, CALIFORNIA  
2005 ESCONDIDO BOULEVARD  
ESCONDIDO, CA 92025

BUREAU OF INDIAN AFFAIRS  
SUPERINDENDENT  
SOUTHERN CALIFORNIA AGENCY  
1451 RESEARCH PARK DRIVE, SUITE 100  
RIVERSIDE, CA 92507

# ALTA COMMITMENT FOR TITLE INSURANCE

## SCHEDULE B PART II

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### Exceptions

File No.: 20000481333- Amended No. Two

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I - Requirements are met.

### Taxes:

- A. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes, to be levied for the fiscal year 2021 - 2022.
- B. Taxes and/or assessments affecting the Land, if any, for community facility districts, including Mello Roos, which may exist by virtue of assessment maps or filed notices. These taxes and/or assessments are typically collected with the county taxes; however, sometimes they're removed and assessed and collected separately.
- C. 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.

### Exceptions:

1. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, geothermal resources, brine, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. Stewart Title Guaranty Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
2. The provisions and reservations contained in the Patent from the United States of America to Samuel Brooke recorded February 1, 1933 in Book 186 Page 333 of Official Records.

Subject to any vested and acquired water rights for mining, agricultural, manufacturing or other purposes, and right to ditches and reservoirs used in connection with such water rights.

Reference is made to said document for full particulars.

3. The effect of an easement granted to John Miller, residing in Spring Valley, County of San Diego, California,

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

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File No. 20000481333

ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18) SCE

Page 1 of 2





## ALTA COMMITMENT FOR TITLE INSURANCE SCHEDULE B PART II

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

### Exceptions

recorded May 22, 1951 in [Book 4108, Page 206](#) of Official Records. Said easement has no route and cannot be plotted.

4. Matters contained in Record of Survey Map No. [18238](#) of Records of Survey.
5. Intentionally deleted.
6. Intentionally deleted.
7. Lack of access and/or lack of right of access.
8. Any facts, rights, interests or claims which would be disclosed by an inspection of the Land.
9. Rights of tenants in possession whether or not recorded in the public record.

Typist: BG/ LTW

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.*

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File No. 20000481333

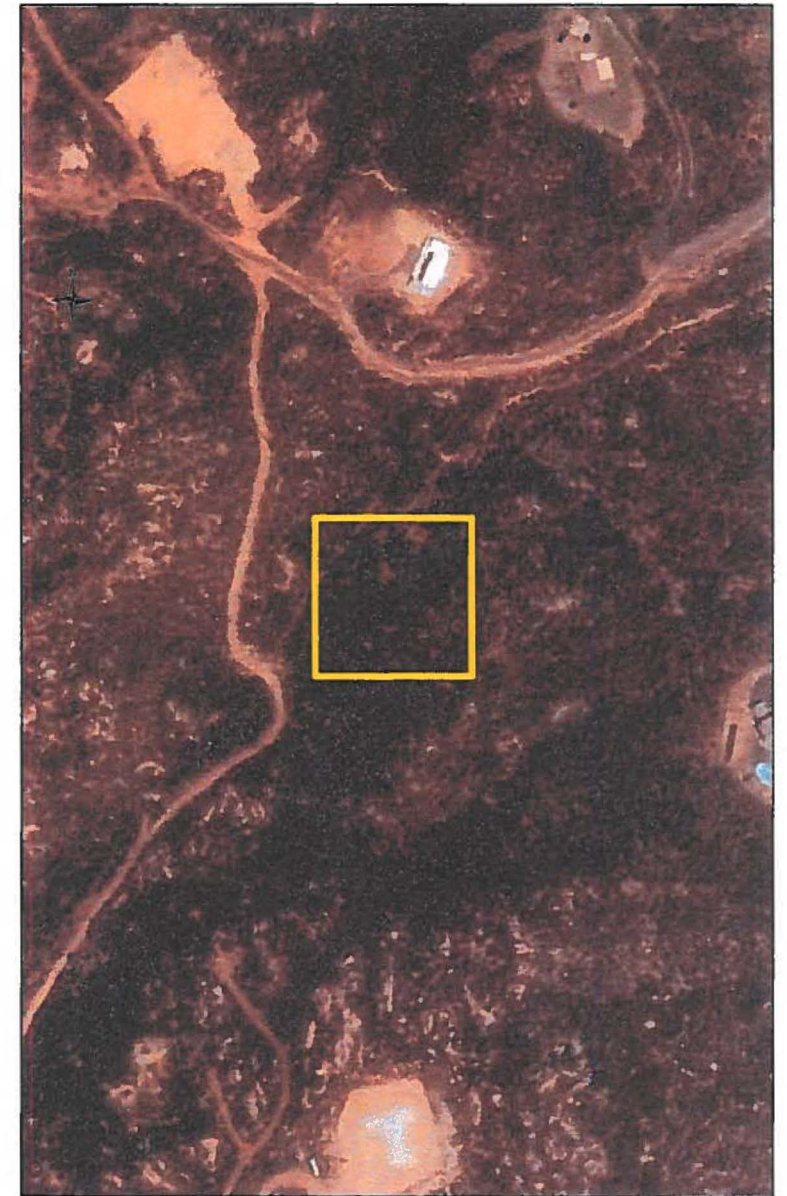
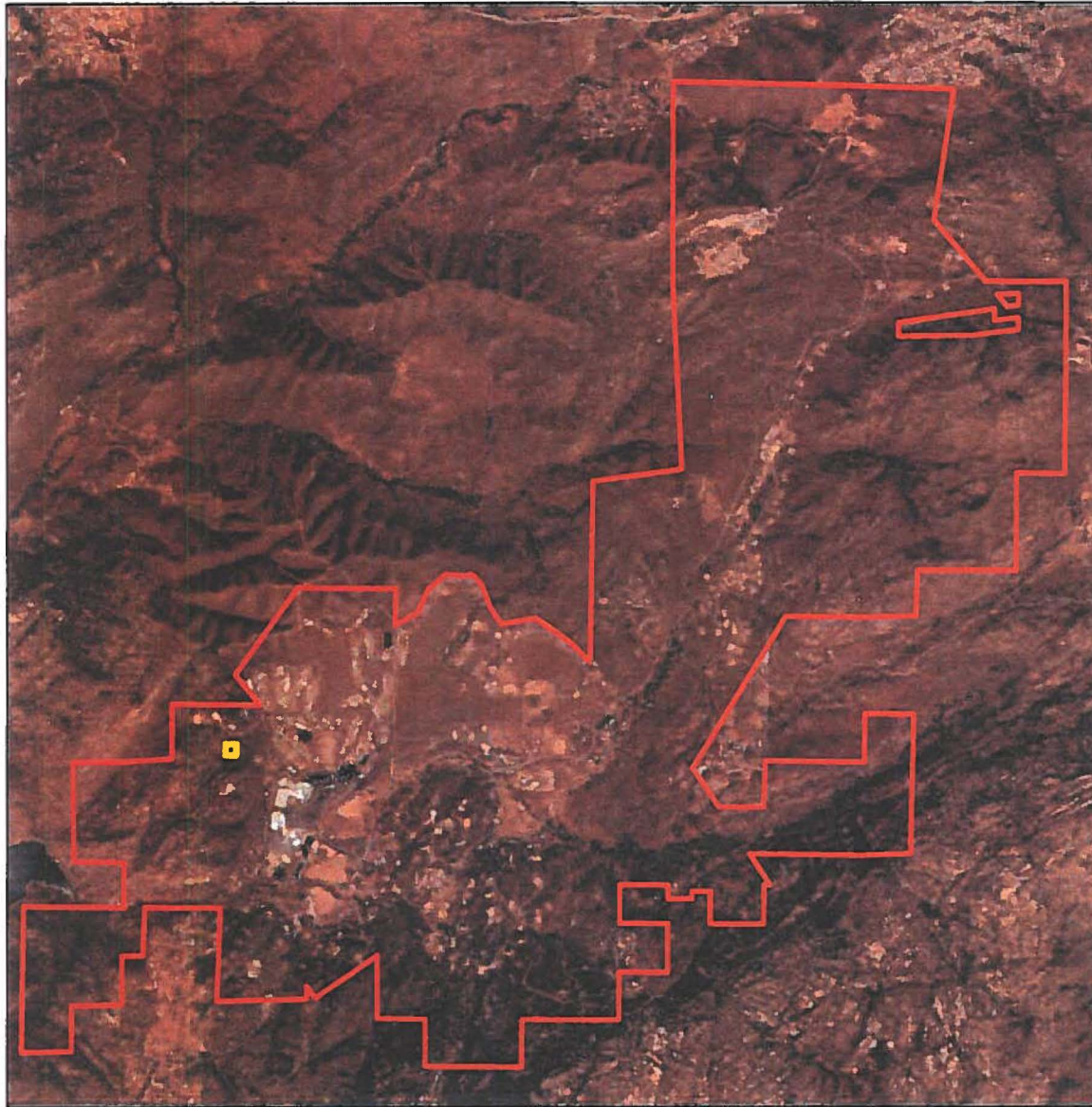
ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18) SCE

Page 2 of 2



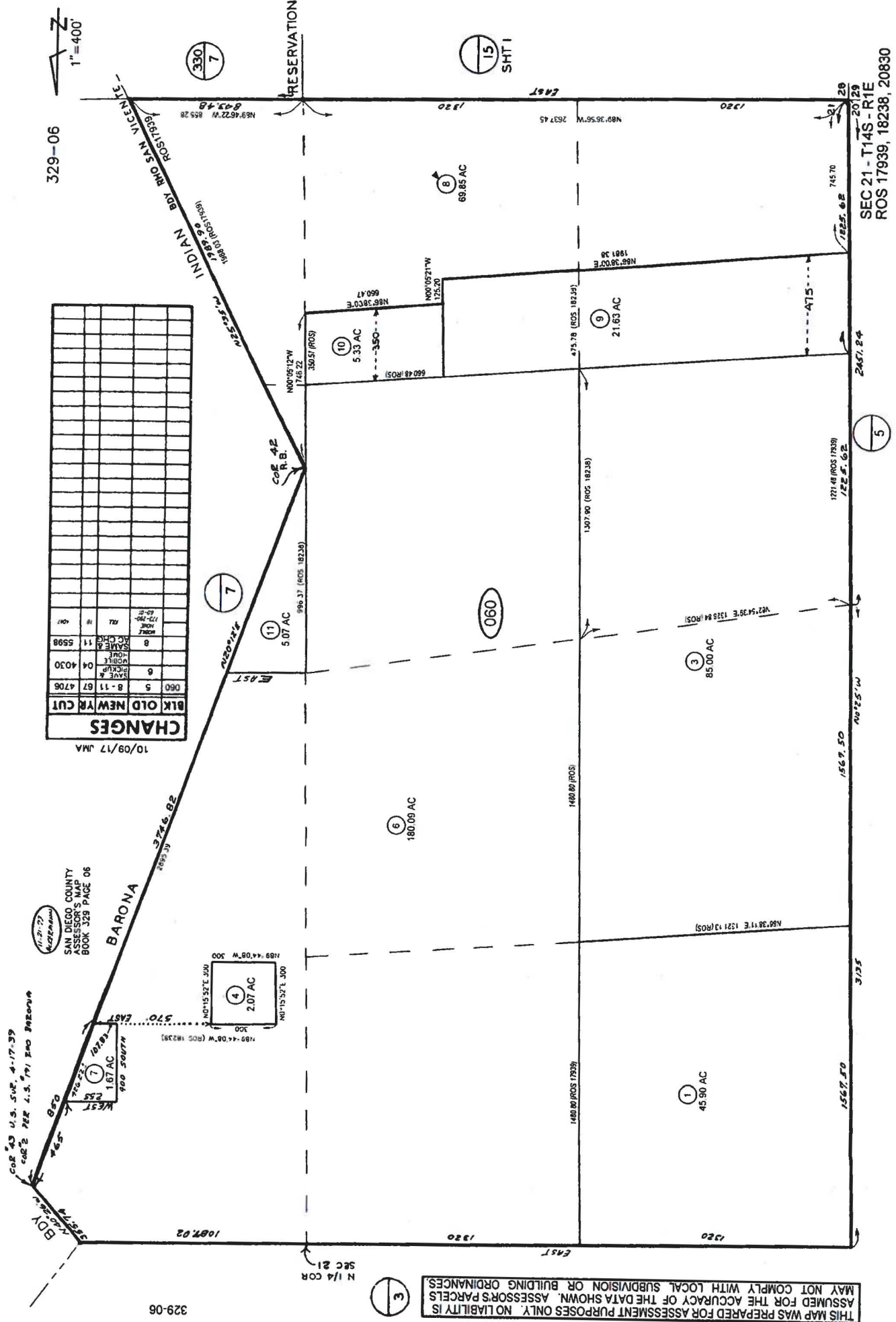


Location of APN 329-060-04-00



0 50 100 200 300 400 500 Feet  
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## § 150.11

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.

## 25 CFR Ch. I (4–1–20 Edition)

- 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 review.
- 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.

[79 FR 76897, Dec. 23, 2014]

## Bureau of Indian Affairs, Interior

## § 151.3

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



#### **§ 151.4**

- (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

#### **25 CFR Ch. I (4-1-20 Edition)**

- (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:



## Bureau of Indian Affairs, Interior

## § 151.12

(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 reservation, shall be considered as follows: as the distance between the tribe's reservation and the land to be acquired in-

creases, 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

(iii) Immediately acquire the land in trust under § 151.14 on or after the date

## § 151.13

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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 paragraphs (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 review.

(a) If the Secretary determines that she will approve a request for the acquisition of land from unrestricted fee status to trust status, she shall require the applicant to furnish title evidence as follows:

(1) The deed or other conveyance instrument providing evidence of the applicant's title or, if the applicant does not yet have title, the deed providing evidence of the transferor's title and a written agreement or affidavit from the transferor, that title will be transferred to the United States on behalf of the applicant to complete the acquisition in trust; and

(2) Either:

(i) A current title insurance commitment; or

(ii) The policy of title insurance issued to the applicant or current owner and an abstract of title dating from the time the policy of title insurance was issued to the applicant or current owner to the present.

(3) The applicant may choose to provide title evidence meeting the title standards issued by the U.S. Department of Justice, in lieu of the evidence required by paragraph (a)(2) of this section.

(b) After reviewing submitted title evidence, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities that the Secretary identified and may seek additional information from the applicant needed to address such issues. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to taking final approval action on the acquisition, and she shall require elimination prior to such approval if she determines that the liens, encumbrances or infirmities make title to the land unmarketable.

[81 FR 30177, May 16, 2016]

**§ 151.14 Formalization of acceptance.**

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

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

**§ 151.15 Information collection.**

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

(b) Public reporting for this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information collection. Direct comments regarding the burden estimate or any other aspect of this information collection to the Bureau of Indian Affairs, Information Collection Clearance Officer, Room 337-SIB, 18th and C Streets, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs [Project 1076-0100], Office of Management and Budget, Washington, DC 20502.

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

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

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