



**AGENDA  
REGULAR SESSION OF THE  
COUNTY TECHNICAL ADVISORY COMMITTEE NO. 11  
NATURAL RESOURCES AND ENVIRONMENTAL  
COORDINATION**

**December 3, 2024 at 3:30 PM  
FLYNN CENTER – BOARD OF SUPERVISORS CHAMBERS  
981 H STREET, SUITE 100  
CRESCENT CITY, CALIFORNIA**

1. Call to order.
2. Public comment period. Please limit comments to three minutes.
3. Discuss Notice of Non-Gaming Land Acquisition Applications sent to the County by the Bureau of Indian Affairs on behalf of the Tolowa Dee-Ni Nation. The applications propose removing 21.27 acres and 3.55 acres respectively from the tax rolls. The undeveloped 21.27 acres comprise 7 lots of mixed zoning designations for housing, a parking area for adjoining Tribal enterprises, a Cultural Center, and a cultural preserve area. The 3.55 acres comprises two parcels and is developed with the Rowdy Creek Fish Hatchery. No changes to use are proposed for the 3.55 acres. The County was requested to provide information regarding the amounts of property taxes for the parcels, any special assessments against any of the parcels, any governmental services provided to the parcels by the County, and how the intended use for each parcel is consistent, or inconsistent, with current zoning.

**Action:**

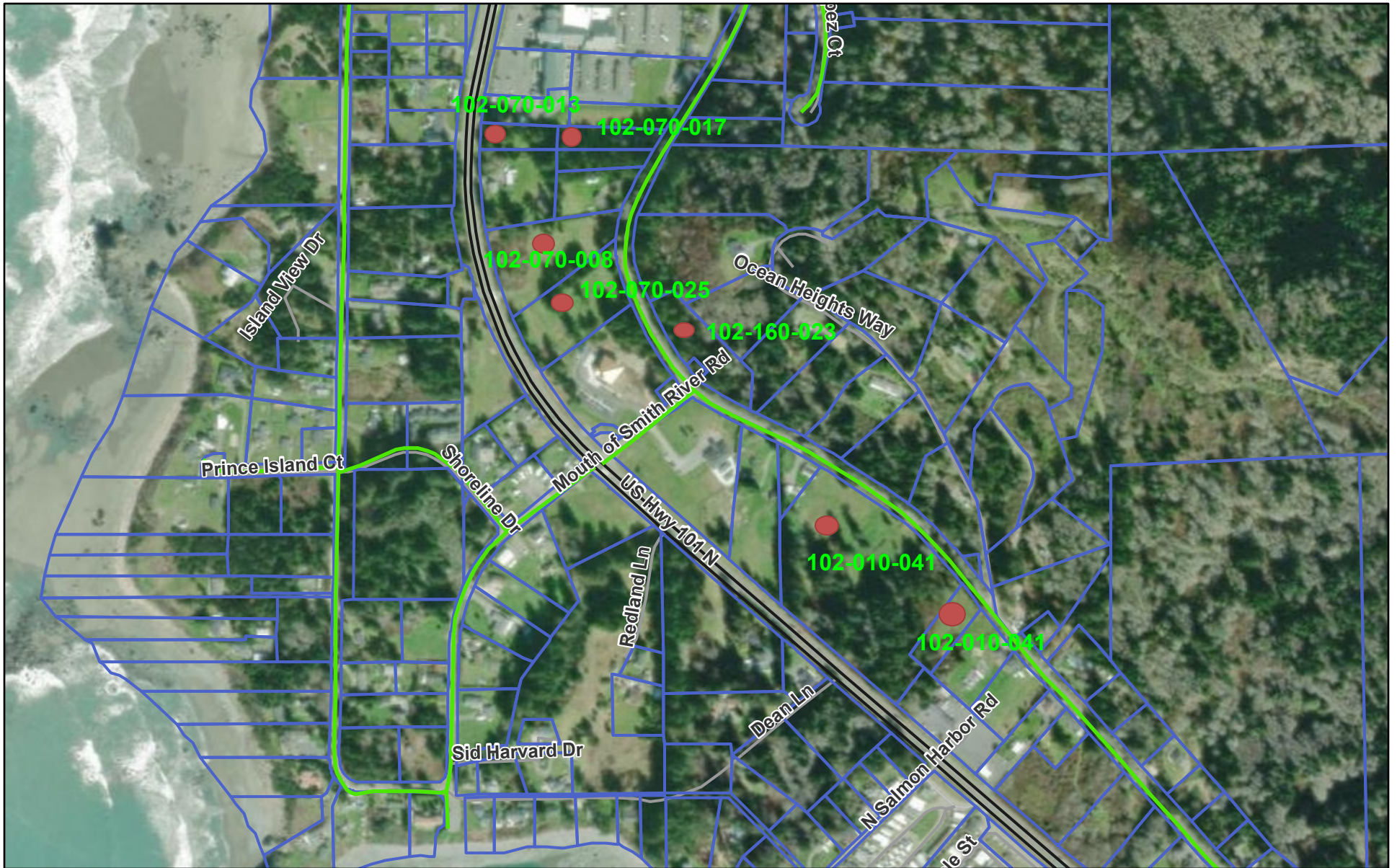
Consider forwarding a recommendation to the Board of Supervisors to send a letter to the Bureau of Indian Affairs responding to the four questions as well as acknowledging County Resolution 2007-053 regarding “no net loss” of privately-owned land due to purchase by Federal or State governments.

**Attachments:**

Maps Showing Parcel Locations  
Tables Summarizing Zoning and Existing Land Uses  
Notice of Non-Gaming Land Acquisition Applications  
Del Norte County Board of Supervisors Resolution 2007-053

4. Information sharing by members including updates to previously considered items.
5. Adjourn

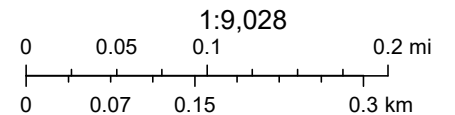
# Case Number 56749 Map



11/26/2024, 7:50:47 AM

**Note: 102-070-017 is actually the parcel north of the red dot.**

- |  |   |
|--|---|
| <span style="color: red;">■</span> Override 1                | Roads   |
| <span style="color: green;">—</span> County Maintained Roads | <span style="border-bottom: 1px solid black;">    </span> Secondary Road                                  |
| <span style="border: 1px solid blue;">□</span> Parcels       | <span style="border-bottom: 1px solid grey;">    </span> Local Neighborhood Road, Rural Road, City Street |
|  | <span style="border-bottom: 1px solid grey;">    </span> Alley  |

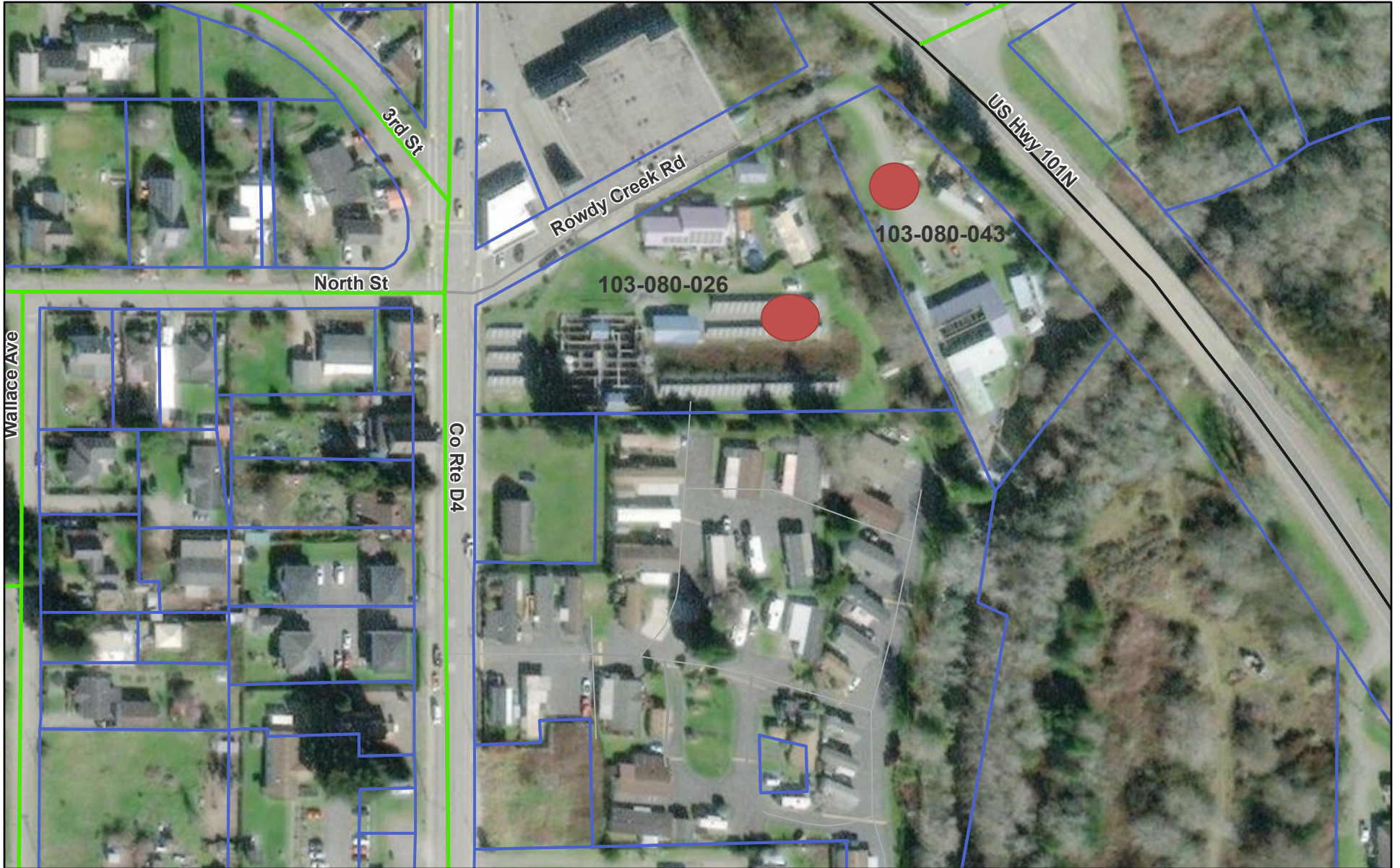


Maxar

ArcGIS Web AppBuilder

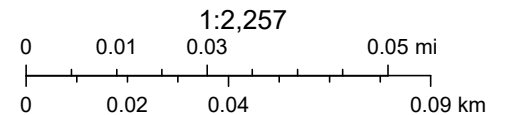
Assessor Parcel Number	Situs Address if Assigned	Size in Acres	Zoning	Current Use	Proposed Use from Application	Consistency Determination
102-010-040	N/A - accessed from Ocean View Drive	1.00	Commercial Recreation (CR) and Designated Resource Conservation Area Riparian (RCA-2(r)) -- Coastal	Undeveloped - coastal drainage along west property line.	From application - applied to all parcels. The Tribe intends to use the proposed trust land for construction of new housing, additional parking for tribal enterprises, a cultural preserve area and a new Cultural Center for cultural revitalization and self-determination.	It depends on the location for the planned use. Specific information for each site needed.
102-010-041	N/A frontage on 101 and Ocean View Drive. Developable area is accessible from Ocean View Drive.	10.77	Commercial Recreation (CR) and Designated Resource Conservation Area Riparian (RCA-2(r)) -- Coastal	Undeveloped. The majority is zoned RCA-2( r).	See above.	See above.
102-070-008	13001 Highway 101	2.85	Rural Residential and Agriculture - one acre minimum lot size (RRA-1) - Coastal	Undeveloped. Previously had a low value structure on it.	See above.	See above.
102-070-013	13091 Highway 101	0.69	Rural Residential and Agriculture - one acre minimum lot size (RRA-1) - Coastal	Undeveloped	See above.	See above.
102-070-017	13130 Ocean View Drive	1.00	Rural Residential and Agriculture - one acre minimum lot size (RRA-1) - Coastal	Undeveloped. Previously developed with residence.	See above.	See above.
102-070-025	12955 Highway 101	2.96	Rural Residential Agriculture - one acre minimum lot size (RRA-1) - Coastal	Undeveloped	See above.	See above.
102-160-023	N/A Accessed from Ocean View Drive	2.00	Rural Residential Agriculture - two acre minimum lot size - coastal hazard overlay for steep slopes. (RRA-2-C(H)) - Coastal	Undeveloped	See above.	See above.
	<b>Total Acres</b>	<b>21.27</b>				

# Case Number 56743 Map



11/26/2024, 8:32:08 AM

- Override 1
- Parcels
- County Maintained Roads
- Yes
- Roads
- Secondary Road
- Local Neighborhood Road, Rural Road, City Street
- Private Road for service vehicles (logging, oil fields, ranches, etc.)



Maxar, Microsoft

ArcGIS Web AppBuilder

**Case Number 56743 ( Rowdy Creek Fish Hatchery)**

<b>Assessor Parcel Number</b>	<b>Situs Address if Assigned</b>	<b>Size in Acres</b>	<b>Zoning</b>	<b>Current Use</b>	<b>Proposed Use from Application</b>	<b>Consistency Determination</b>
103-080-026	255 N. Fred Haight Drive	2.50	General Commercial (C-4), Light Commercial (C-2) (along Fred D. Haight Drive) Non-Coastal	Facilities related to the fish hatchery	No change in used proposed.	Consistent. The County recently approved a permit to rehabilitate the fish hatchery.
103-080-043	10202 Highway 101 S.	1.12	General Commercial (C-4), Light Commercial (C-2) (along Fred D. Haight Drive) Non-Coastal	Facilities related to the fish hatchery	No change in used proposed.	Consistent. The County recently approved a permit to rehabilitate the fish hatchery.
	<b>Total Acres</b>	<b>3.62</b>				

BOARD OF SUPERVISORS  
COUNTY OF DEL NORTE  
STATE OF CALIFORNIA

DEL NORTE COUNTY BOARD OF SUPERVISORS  
RESOLUTION NO. 2007- 053

RESOLUTION OF THE BOARD OF SUPERVISORS OF DEL NORTE COUNTY  
REGARDING "NO NET LOSS" OF PRIVATELY-OWNED LAND  
DUE TO PURCHASE BY THE FEDERAL OR STATE GOVERNMENTS

WHEREAS, the unique resources of Del Norte County have attracted and continue to attract substantial land acquisitions within the county by the federal and state governments; and

WHEREAS, the exemption of properties in the public domain from taxation has affected the budgets of local public agencies responsible for the delivery of public services; and

WHEREAS, the economy of our county and the way of life of our residents requires a balance between public and private sector resources and activity; and

WHEREAS, in excess of seventy percent of the territory of Del Norte County is already in public sector ownership; and

WHEREAS, in many cases, there are funds for the acquisition of property that are not accompanied by funds for payments in lieu of taxes, programs, management or even public access to the property; and

WHEREAS, pressure for additional federal and state acquisition of Del Norte County properties is likely to continue or increase; and

WHEREAS, the Board of Supervisors of our neighbor to the south, Humboldt County, has adopted Resolution 92-35, which calls for no net loss due to federal and state acquisitions, now, therefore,

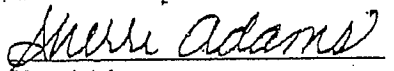
BE IT RESOLVED that the Board of Supervisors of the County of Del Norte goes on record as supporting a policy of "no net loss of privately-owned lands," coupled with the concept that the acquisition of land within this county by the federal or state governments, or by agents or organizations acting on their behalf, shall be offset by the sale of lands of equal or greater value to the private sector, so that the result is no net loss of local tax revenue from the transactions.

PASSED AND ADOPTED this 17 day of September, 2007, by the following polled vote of Board of Supervisors of the County of Del Norte:

AYES: Supervisors McNamer, Hemmingsen, Sullivan, and Finigan  
NOES: Supervisor McClure  
ABSENT: None

  
David Finigan, Chair  
Del Norte County Board of Supervisors

ATTEST:

  
Sherri Adams,  
Clerk of the Board of Supervisors



# United States Department of the Interior

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

Received by

NOV 25 2024

Board of Supervisors,  
County of Del Norte

IN REPLY REFER TO

Real Estate Services  
TR-4609-P5

Case Number: 56749

## NOTICE OF NON-GAMING LAND ACQUISITION APPLICATION

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, 151.10 (04-01-2024 Edition) Contiguous, notice is given of the application filed by the Tolowa Dee-ni' Nation (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:**

Tolowa Dee-ni' Nation

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

That real property in the unincorporated area of the County of Del Norte, State of California, described as follows:

[REFERENCED ON GRANT DEED RECORDED OCTOBER 16, 2006 DOCUMENT# 20066980]

BEGINNING at a point 1351.78 feet south and 361.35 feet east of the north quarter section corner of Section 17, Township 18 North, Range 1 West, Humboldt Base and Meridian; and running  
thence south 89 degrees 27 minutes 05 seconds west, 307.42 feet, more or less, to the easterly edge of U.S. Highway 101;  
thence northerly along said easterly edge of U.S. Highway 101, 93.20 feet, more or less, to the northerly line of that parcel of property as conveyed to Clara L. Denton and Mamie Yates by deed of record in Book 58 of Official Records, page 502, Del Norte County Records;  
thence south 88 degrees 16 minutes 20 seconds east, 307.42 feet along said north line to a point from which the point of beginning bears south 01 degrees 43 minutes 40 seconds west;  
thence south 01 degrees 43 minutes 40 seconds west, 93.20 feet to the point of beginning.

A.P.N. 102-070-13

[REFERENCED ON GRANT DEED RECORDED AUGUST 04, 2009 DOCUMENT# 20093395]

BEGINNING at a point 1163.02 feet South and 413.38 feet East of the North quarter section corner Section 17, Township 18 North, Range 1 West, Humboldt Meridian; and running  
thence South 1 degree 43 minutes 40 seconds West, 97.05 feet;  
thence South 88 degrees 16 minutes 20 seconds East, 420.72 feet to former highway 101;  
thence along said highway, North 31 degrees 49 minutes East 112.16 feet to a point from which the point of beginning bears North 88 degrees 16 minutes 20 seconds West; and  
thence North 88 degrees 16 minutes 20 seconds West, 476.95 feet to the point of beginning.

A.P.N. 102-070-17

[REFERENCED ON GRANT DEED RECORDED OCTOBER 12, 2004 DOCUMENT# 20047537]

BEGINNING at a point on the easterly line of State Highway opposite Engineer's Station 230+94.57, said point of beginning being 1675.30 feet south and 77.18 feet east of the north quarter section corner of Section 17, Township 18 North, Range 1 West, Humboldt Meridian; and running  
thence from a point of beginning along the easterly line of highway on a curve to the left from a tangent which bears south 10 degrees 22 minutes 55 seconds east, through an angle of 12 degrees 49 minutes 12 seconds, with a radius of 1600.00 feet, a distance of 358.00 feet;  
thence leaving highway, north 53 degrees 20 minutes east, 571.72 feet to old highway 101;  
thence along old highway 101, north 44.94 feet;  
thence north 22 degrees 28 minutes east 52.58 feet; and  
thence leaving old Highway, south 80 degrees 55 minutes 34 seconds west 589.24 feet to the point of beginning.

A.P.N. 102-070-08

[REFERENCED ON GRANT DEED RECORDED DECEMBER 31, 2015 DOCUMENT# 20155614]

BEGINNING at a point on the Easterly line of State Highway opposite Engineer's Station 277+36.57, said point of beginning being 2017.31 feet South and 180.37 feet East of the North Quarter Section Corner of Section 17, Township 18 North, Range 1 West, Humbolt Meridian; Thence Southerly from place of beginning along the Easterly line of Highway on a curve to the left from a tangent which bears South 23 degrees 12 minutes 7 seconds East through an angle of 8 degrees 57 minutes 09 seconds with a radius of 1600.00 feet, a distance of 250.00 feet; Thence leaving Highway, North 53 degrees 20 minutes East 493.08 feet to Old Highway 101; Thence along Old Highway 101, North 20 degrees 32 ½ minutes West 150.88 feet; Thence North 126.85 feet; Thence leaving Old Highway, South 53 degrees 20 minutes West 571.72 feet to the place of beginning.

A.P.N. 102-070-09

[REFERENCED ON GRANT DEED RECORDED AUGUST 11, 2005 DOCUMENT# 20055922]

Parcel "B" as shown on the parcel map filed in the office of the County Recorder of Del Norte County, California on July 1, 1997 in Book 8 of Parcel Maps, page 92.

A.P.N. 102-160-23

[REFERENCED ON GRANT DEED RECORDED JUNE 08, 2007 DOCUMENT# 20073301]

REMAINDER PARCEL, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF DEL NORTE COUNTY, STATE OF CALIFORNIA ON SEPTEMBER 9, 2005 IN BOOK 10 OF PARCEL MAPS, PAGE 7, OFFICIAL RECORDS.

A.P.N. 102-010-41

[REFERENCED ON GRANT DEED RECORDED JUNE 08, 2007 DOCUMENT# 20073302]

PARCEL C, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "PARCEL MAP" FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF DEL NORTE COUNTY, STATE OF CALIFORNIA ON SEPTEMBER 9, 2005 IN BOOK 10 OF PARCEL MAPS, PAGE 7, OFFICIAL RECORDS.

A.P.N. 102-010-40

**Project Description/Proposed Land Use:**

The subject property consists of land containing 21.27 acres, more or less, commonly referred to as the Croft, Ball, Allen/Epperson, Etta, Richards, Brune and Eller properties; Assessor's Parcel Numbers 102-070-17, 102-070-13, 102-070-08, 102-070-25, 102-160-23, 102-010-41, and 102-010-40. The subject property is contiguous to land held in trust for the Tribe. The Tribe intends to use the proposed trust land for construction of new housing, additional parking for Tribal enterprises, a cultural preserve area and a new Cultural Center for cultural revitalization and self-determination.

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 Langdon Bueschel, Realty Specialist, (916) 978-6092.

Sincerely,

**RYAN HUNTER**

Digitally signed by RYAN  
HUNTER  
Date: 2024.11.20 15:43:14 -08'00'

Acting Regional Director

Enclosures

cc: Distribution List

DISTRIBUTION LIST

CC:

BY CERTIFIED MAIL:

Senior Advisor for Tribal Negotiations  
Deputy Legal Affairs Secretary  
Office of the Governor  
California State Capitol Building, Ste. 1173  
Sacramento, CA 95814  
Certified Mail ID: 9589 0710 5270 1274 8936 23

T. Michelle Laird, Supervising Deputy Attorney General  
c/o Paula Corral  
State of California, Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2250  
Certified Mail ID: 9589 0710 5270 1274 8936 30

Del Norte County Board of Supervisors  
981 H Street, Suite 200  
Crescent City, CA 95531  
Certified Mail ID: 9589 0710 5270 1274 8936 47

Del Norte County Treasurer  
981 H Street, Suite 120  
Crescent City, CA 95531  
Certified Mail ID: 9589 0710 5270 1274 8936 54

The Honorable Jeri Thompson  
Chairperson, Tolowa Dee-ni' Nation  
12801 Mouth of Smith River Rd.  
Smith River, CA 95567  
Certified Mail ID: 9589 0710 5270 1274 8936 61

BY FIRST CLASS MAIL:

Bureau of Indian Affairs  
Northern California Agency  
Superintendent  
364 Knollcrest Drive, Ste. 105  
Redding, CA 96002

§ 150.401

- (b) The fee will be at the rate established by 43 CFR 2, Appendix A.
- (c) The LTRO may waive all or part of these fees, at its discretion.
- (d) Paid fees are non-refundable.

**Subpart E—Records**

**§ 150.401 Who owns the records associated with this part?**

(a) The records associated with this part are the property of the United States if they:

(1) Are made or received by the Secretary or a Tribe or Tribal organization in the conduct of a Federal trust function under 25 U.S.C. 5301 *et seq.*, including the operation of a trust program; and

(2) Evidence the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a Federal trust function under this part.

(b) Records not covered by paragraph (a) of this section that are made or received by a Tribe or Tribal organization in the conduct of business with the Department of the Interior under this part are the property of the Tribe.

**§ 150.402 How must records associated with this part be preserved?**

(a) Tribes, Tribal organizations, and any other organization that make or receives records described in § 150.401(a) must preserve the records in accordance with approved Departmental records retention procedures under the Federal Records Act, 44 U.S.C. chapters 29, 31 and 33. These records and related records management practices and safeguards required under the Federal Records Act are subject to inspection by the Secretary and the Archivist of the United States.

(b) A Tribe or Tribal organization should preserve the records identified in § 150.401(b) for the period of time authorized by the Archivist of the United States for similar Department of the Interior records in accordance with 44 U.S.C. chapter 33.

**§ 150.403 How does the Paperwork Reduction Act affect this part?**

The information collections contained in this part have been approved by the Office of Management and Budget

25 CFR Ch. I (4-1-24 Edition)

et under 44 U.S.C 3301 *et seq.* and assigned OMB Control Number 1076-0196. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation containing the collection of information has a currently valid OMB Control Number.

**PART 151—LAND ACQUISITIONS**

- Sec.
- 151.1 What is the purpose of this part?
  - 151.2 How are key terms defined?
  - 151.3 What is the Secretary's land acquisition policy?
  - 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?
  - 151.5 May the Secretary acquire land in trust status by exchange?
  - 151.6 May the Secretary approve acquisition of a fractional interest?
  - 151.7 Is Tribal consent required for non-member acquisitions?
  - 151.8 What documentation is included in a trust acquisition package?
  - 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?
  - 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?
  - 151.11 How will the Secretary evaluate a request involving land outside of and non-contiguous to the boundaries of an Indian reservation?
  - 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?
  - 151.13 How will the Secretary act on requests?
  - 151.14 How will the Secretary review title?
  - 151.15 How will the Secretary conduct a review of environmental conditions?
  - 151.16 How are formalization of acceptance and trust status attained?
  - 151.17 What effect does this part have on pending requests and final agency decisions already issued?
  - 151.18 Severability.

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 403a-2, 409a, 1466, 1495, 5107, 5108, 5136, 5138, 5201, 5202, 5322, 5341; Pub. L. 71-780, 46 Stat. 1471, amended by Pub. L. 72-231, 47 Stat. 474; Pub. L. 74-816, 49 Stat. 1967, amended by Sec. 10, Pub. L. 80-336, 61 Stat. 734; Secs. 3, 4, 6, Pub. L. 76-238, 53 Stat. 1129, 1130; Sec. 7, Pub. L. 79-706, 60 Stat. 969, amended by Pub. L. 91-627, 84 Stat. 1874; Pub. L. 81-226, 63 Stat. 605; Pub. L. 84-188, 69 Stat. 392, amended by Pub. L. 88-540, 78 Stat. 747, amended by Sec. 213.

Pub. L. 100-581, 102 Stat. 2941, amended by Sec. 1, Pub. L. 101-301, 104 Stat. 206; Pub. L. 84-592, 70 Stat. 290, amended by Pub. L. 91-274, 84 Stat. 301; Pub. L. 84-772, 70 Stat. 626; Sec. 10, Pub. L. 87-231, 75 Stat. 505; Pub. L. 88-196, 77 Stat. 349; Pub. L. 88-418, 78 Stat. 389; Pub. L. 90-335, 82 Stat. 174, amended by Pub. L. 93-286, 88 Stat. 142; Pub. L. 90-534, 82 Stat. 884; Pub. L. 92-312, 86 Stat. 216; Pub. L. 92-377, 86 Stat. 530; Pub. L. 92-443, 86 Stat. 744; Sec. 11, Pub. L. 93-531, 88 Stat. 1716, amended by Sec. 4, Pub. L. 96-305, 94 Stat. 930, amended by Sec. 106, 98-603, 98 Stat. 3157, amended by Secs. 4(b), 8, Pub. L. 100-666, 102 Stat. 3930, 3933.

SOURCE: 88 FR 86249, Dec. 12, 2023, unless otherwise noted.

#### § 151.1 What is the purpose of this part?

This part sets forth the authorities, policies, and procedures governing the acquisition of land by the United States in trust status for individual Indians and Tribes. This part does not cover acquisition of land by individual Indians and Tribes in fee simple status even though such land may, by operation of law, be held in restricted status following acquisition; acquisition of land mandated by Federal law; acquisition of land in trust status by inheritance or escheat; or transfers of land into restricted fee status unless required by Federal law.

#### § 151.2 How are key terms defined?

*Contiguous* means two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way and includes parcels that touch at a point.

*Fee interest* means an interest in land that is owned in unrestricted fee simple status and is, thus, freely alienable by the fee owner.

*Fractionated tract* means a tract of Indian land owned in common by Indian landowners and/or fee owners holding undivided interests therein.

*Indian land* means any tract in which any interest is held by a Tribe or individual Indian in trust or restricted status and includes both individually owned Indian land and Tribal land.

*Indian landowner* means a Tribe or individual Indian who owns an interest in Indian land.

*Indian reservation* or *Tribe's reservation* means, unless another definition is

required by Federal law authorizing a particular trust acquisition, 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 wherever historic reservations have not yet been reaffirmed, 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.

*Individual Indian* means:

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

(2) Any person who is a descendant of such a member and said descendant was, on June 1, 1934, physically residing on a federally recognized Indian reservation; or

(3) Any other person possessing a total of one-half or more degree Indian blood of a Tribe.

*Initial Indian acquisition* means an acquisition of land in trust status for the benefit of a Tribe that currently has no land held in trust status.

*Interested party* means a person or other entity whose legally protected interests would be affected by a decision.

*Land* means real property or any interest therein.

*Marketable title* means title that a reasonable buyer would accept because it appears to lack substantial defect and that covers the entire property that the seller has purported to sell.

*Preliminary Title Opinion* means an opinion issued by the Office of the Solicitor that reviews the existing status of title, examining both record and non-record title evidence and any encumbrances or liens against the land, and sets forth requirements to be met before acquiring land in trust status.

*Preliminary title report* means a report prepared by a title company prior to issuing a policy of title insurance that shows the ownership of a specific parcel of land together with the liens and encumbrances thereon.

*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 due to limitations contained in the conveyance instrument pursuant to Federal law or because a Federal law directly imposes such limitations.

*Secretary* means the Secretary of the Interior or authorized representative.

*Tribe* means any Indian Tribe listed under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130). For purposes of acquisitions made under the authority of 25 U.S.C. 5136 and 5138, 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. 5124) or section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 5203).

*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.

*Undivided interest* means a fractional share of ownership in an estate of Indian land where the estate is owned in common with other Indian landowners or fee owners.

#### § 151.3 What is the Secretary's land acquisition policy?

(a) It is the Secretary's policy to acquire land in trust status through direct acquisition or transfer for individual Indians and Tribes to strengthen self-determination and sovereignty, ensure that every Tribe has protected homelands where its citizens can maintain their Tribal existence and way of life, and consolidate land ownership to strengthen Tribal governance over reservation lands and reduce checkerboarding. The Secretary retains discretion whether to acquire land in trust status where discretion is granted under Federal law. Land not held in trust or restricted status may only be acquired for an individual Indian or a Tribe in trust status when the acquisition is authorized by Federal law. No acquisition of land in trust status under these regulations, including a transfer of land already held in trust or restricted status, shall be valid unless the acquisition is approved by the Secretary.

(b) Subject to the provisions of Federal law authorizing trust land acquisitions, the Secretary may acquire land for a Tribe in trust status:

(1) When the land is located within the exterior boundaries of the Tribe's reservation or contiguous thereto;

(2) When the Tribe already owns an interest in the land; or

(3) When the Secretary determines that the acquisition of the land will further Tribal interests by establishing a Tribal land base or protecting Tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, reducing checkerboarding, acquiring land lost through allotment, protecting treaty or subsistence rights, or facilitating Tribal self-determination, economic development, Indian housing, or for other reasons the Secretary determines will support Tribal welfare.

(c) Subject to the provisions contained in Federal law which authorize land acquisitions or holding land in trust or restricted status, the Secretary may acquire land in trust status for an individual Indian:

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

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

#### § 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

When a Tribe's application relies on the first definition of "Indian" in the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5101 *et seq.*) (IRA) to establish statutory authority for the proposed acquisition, the Secretary will apply the following criteria to determine whether the Tribe was under Federal jurisdiction in 1934.

(a) In determining whether a Tribe was "under Federal jurisdiction" in 1934 within the meaning of section 19 of the IRA (48 Stat. 988; 25 U.S.C. 5129), the Secretary shall consider evidence of Federal jurisdiction in the manner provided in paragraphs (a)(1) through (5) of this section.

(1) Conclusive evidence establishes in and of itself both that a Tribe was

placed under Federal jurisdiction and that this jurisdiction remained intact in 1934. If such evidence exists, no further analysis under this section is needed. The following is conclusive evidence that a Tribe was under Federal jurisdiction in 1934:

(i) A vote under section 18 of the IRA (48 Stat. 988; 25 U.S.C. 5125) to accept or reject the IRA as recorded in *Ten Years of Tribal Government Under I.R.A.*, Theodore Haas, United States Indian Service (Jan. 1947) (Haas List) or other Federal government document;

(ii) Land held in trust by the United States for the Tribe in 1934.

(iii) Secretarial approval of a Tribal constitution under section 16 of the IRA as recorded in the Haas List or other Federal Government document;

(iv) Secretarial approval of a charter of incorporation issued to a Tribe under section 17 of the IRA as recorded in the Haas List or other Federal Government document;

(v) An Executive Order for a specific Tribe that was still in effect in 1934;

(vi) Treaties to which a Tribe is a party, ratified by the United States and still in effect as to that party in 1934;

(vii) Continuing existence in 1934 or later of treaty rights guaranteed by a treaty ratified by the United States; or

(viii) Other evidence that the Secretary determines is conclusive in a particular case.

(2) Presumptive evidence is indicative that a Tribe was placed under Federal jurisdiction in or before 1934 and may indicate that such jurisdiction remained intact in 1934. In the absence of evidence indicating that Federal jurisdiction did not exist or did not exist in 1934, presumptive evidence satisfies the analysis under this section. The following is presumptive evidence that a Tribe was under Federal jurisdiction in 1934:

(i) Evidence of treaty negotiations or evidence a Tribe signed a treaty with the United States whether or not such treaty was ratified by Congress;

(ii) Listing of a Tribe in the Department of the Interior's 1934 Indian Population Report;

(iii) Evidence that the United States took efforts to acquire lands on behalf

of a Tribe in the years leading up to the passage of the IRA;

(iv) Inclusion in Volume V of Charles J. Kappler's *Indian Affairs, Laws and Treaties*;

(v) Federal legislation for a specific Tribe, including land claim settlements and termination legislation enacted after 1934, which acknowledges the existence of a government-to-government relationship with a Tribe in or before 1934; or

(vi) Satisfaction of the criterion for Federal acknowledgment now located at 25 CFR 83.11(a) and previously located at 25 CFR 83.7(a), requiring that a Tribe "has been identified as an American Indian entity on a substantially continuous basis," through evidence that brought the Tribe under Federal jurisdiction in or before 1934; or

(vii) Other evidence that the Secretary determines is presumptive in a particular case.

(3) In the absence of evidence identified above as conclusive or presumptive evidence, the Secretary may find that a Tribe was under Federal jurisdiction in 1934 when the United States in 1934 or at some point in the Tribe's history prior to 1934, took an action or series of actions that, when viewed in concert through a course of dealings or other relevant acts on behalf of a Tribe, or in some instances Tribal members, establishes or generally reflects Federal obligations, or duties, responsibility for or authority over the Tribe, and that such jurisdictional status remained intact in 1934.

(i) Examples of Federal actions that exhibit probative evidence of Federal jurisdiction may include but are not limited to, the Department's acquisition of land for a Tribe in implementing the Indian Reorganization Act of 1934, efforts by the Federal Government to conduct a vote under section 18 of the IRA to accept or reject the IRA where no vote was held, the attendance of Tribal members at Bureau of Indian Affairs operated schools, Federal decisions regarding whether to remove or not remove a Tribe from its homelands, the inclusion of a Tribe in Federal reports and surveys, the inclusion of a Tribe or Tribal members in Federal census records prepared by the

## § 151.5

Office of Indian Affairs, the approval of contracts between a Tribe and non-Indians; enforcement of the Trade and Intercourse Acts (Indian trader, liquor laws, and land transactions), and the provision of health and social services to a Tribe or Tribal members.

(i) [Reserved]

(4) When a Tribe is recognized under the 25 CFR part 83 process, the Secretary may rely on any evidence within the part 83 record that the Tribe was under Federal jurisdiction in or before 1934, consistent with § 151.4(a)(2) and (3).

(5) Evidence of executive officials disavowing Federal jurisdiction over a Tribe in certain instances is not conclusive evidence of a Tribe's Federal jurisdictional status. This is because such disavowals cannot themselves revoke Federal jurisdiction over a Tribe.

(b) For some Tribes, Congress enacted legislation after 1934 making the IRA applicable to the Tribe. The existence of such legislation making the IRA and its trust acquisition provisions applicable to a Tribe eliminates the need to determine whether a Tribe was under Federal jurisdiction in 1934.

(c) In order to be eligible for trust acquisitions under section 5 of the IRA, no additional "under Federal jurisdiction" analysis is required under this part for Tribes for which the Department has previously issued an analysis finding the Tribe was under Federal jurisdiction.

(d) Land may be acquired in trust status for an individual Indian or a Tribe in the State of Oklahoma under section 5 of the IRA if the acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

(e) The Secretary may also acquire land in trust status for an individual Indian or a Tribe under this part when specifically authorized by Federal law other than section 5 of the IRA, subject to any limitations contained in that Federal law.

### § 151.5 May the Secretary acquire land in trust status by exchange?

The Secretary may acquire land in trust status on behalf of an individual Indian or Tribe by exchange under this

## 25 CFR Ch. I (4-1-24 Edition)

part if authorized by Federal law and within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

### § 151.6 May the Secretary approve acquisition of a fractional interest?

Where the mandatory acquisition process provided under 25 U.S.C. 2216(c) is not applicable to a fractional interest acquisition, *e.g.*, where the acquisition proposed is off-reservation, the following section applies to discretionary acquisitions of fractional interests. The Secretary may approve the acquisition of a fractional interest in a fractionated tract in trust status by an individual Indian or a Tribe including when:

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

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

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

(d) There is a specific law which grants to the applicant the right to purchase an undivided interest or interests in trust or restricted land without offering to purchase all such interests; or

(e) The owner or owners of more than fifty percent of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the applicant.

### § 151.7 Is Tribal consent required for nonmember acquisitions?

An individual Indian or Tribe may acquire land in trust status on an Indian 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.

### § 151.8 What documentation is included in a trust acquisition package?

An individual Indian or Tribe seeking to acquire land in trust status must

file a written request, *i.e.*, application, with the Secretary. The request need not be in any special form but must set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of this part. The Secretary will prepare the acquisition package using information provided by the applicant and analysis developed by the Secretary, as described in paragraphs (a)(1) through (9) of this section:

(a) A complete acquisition package consists of the following:

(1) The applicant must submit a request that the land be acquired in trust, as follows:

(i) If the applicant is an Indian Tribe, the Tribe's written request must be a signed Tribal letter for trust acquisition supported by a Tribal resolution or other act of the governing body of the Tribe;

(ii) If the applicant is an individual Indian, the individual's written request must be a signed letter requesting trust status;

(2) The applicant must submit documentation providing the information evaluated by the Secretary under § 151.9(a)(2) and (3), § 151.10(a)(2) and (3), § 151.11(a)(2) and (3), or § 151.12(a)(2) and (3) depending on which section applies to the application;

(3) The applicant must submit a statement identifying the existence of statutory authority for the acquisition including, if applicable, any supporting evidence that the Tribe was under Federal jurisdiction in 1934 pursuant to § 151.4.

(4) The applicant must submit a description of the land as follows:

(i) An aliquot part, government lot, parcel identified on a Government Land Office or Bureau of Land Management official survey plat, or lot block subdivision (LBS) legal description of the land and a map from the applicant, including a statement of the estate to be acquired, *e.g.*, all surface and mineral rights, surface rights only, surface rights and a portion of the mineral rights, etc.; or

(ii) A metes and bounds land description and survey if the land cannot be described by the methods listed in paragraph (a)(4)(i) of this section, in-

cluding a statement of the estate to be acquired. The survey may be completed by a land surveyor registered in the jurisdiction in which the land is located when the land being acquired is fee simple land; and

(iii) An application package is not complete until the Secretary determines that the legal description or survey is sufficient.

(5) The applicant must submit information that allows the Secretary to comply with the National Environmental Policy Act (NEPA) and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations pursuant to § 151.15; and

(i) An acquisition package is not complete until the public review period of a final environmental impact statement or, where appropriate, the final environmental assessment has concluded, or the categorical exclusion documentation is complete.

(ii) An acquisition package is not complete until a pre-acquisition Phase I environmental site assessment, and if necessary, a Phase II environmental site assessment completed pursuant to 602 DM 2 is determined to be sufficient by the Secretary.

(6) The applicant must submit title evidence pursuant to § 151.14.

(i) An acquisition package is not complete until the Secretary completes a Preliminary Title Opinion based on such evidence;

(ii) [Reserved]

(7) The Secretary shall send notification letters pursuant to § 151.9, § 151.10, § 151.11, or § 151.12.

(8) The applicant must submit a statement that any existing covenants, easements, or restrictions of record will not interfere with the applicant's intended use of the land; and

(9) The applicant must submit any additional information or action requested by the Secretary, in writing, if warranted by the specific application.

(b) After the Bureau of Indian Affairs is in possession of a complete acquisition package, the Secretary shall:

(1) Notify the applicant within 30 calendar days in writing that the acquisition package is complete; and

(2) Issue a decision on a request within 120 calendar days after issuance of

the notice of a complete acquisition package.

**§ 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?**

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located within the boundaries of an Indian reservation.

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

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

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

(4) 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.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a Tribe's request for land within the boundaries of an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes,

and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request to have land acquired in trust within the boundaries of an Indian reservation the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired of the applicant's request. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.

**§ 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?**

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located contiguous to an Indian reservation:

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

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

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

(4) 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.

(b) The Secretary shall give great weight to acquiring land that serves

any of the following purposes, in accordance with § 151.3:

- (1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;
- (2) Protects sacred sites or cultural resources and practices;
- (3) Establishes or maintains conservation or environmental mitigation areas;
- (4) Consolidates land ownership;
- (5) Reduces checkerboarding;
- (6) Acquires land lost through allotment;
- (7) Protects treaty or subsistence rights; or
- (8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a Tribe's request for land contiguous to an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request to have land contiguous to an Indian reservation acquired in trust status, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.

**§ 151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?**

(a) The Secretary shall consider the criteria in this section when evaluating

requests for the acquisition of land in trust status when the land is located outside of and noncontiguous to an Indian reservation:

- (1) The existence of statutory authority for the acquisition and any limitations contained in such authority;
- (2) If the applicant is an individual Indian and the land is already held in trust or restricted status, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;
- (3) The purposes for which the land will be used; and
- (4) 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.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

- (1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;
- (2) Protects sacred sites or cultural resources and practices;
- (3) Establishes or maintains conservation or environmental mitigation areas;
- (4) Consolidates land ownership;
- (5) Reduces checkerboarding;
- (6) Acquires land lost through allotment;
- (7) Protects treaty or subsistence rights; or
- (8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) Upon receipt of a written request to have land outside the boundaries of an Indian reservation acquired in trust status, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments

will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

**§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?**

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when a Tribe does not have a reservation or land held in trust.

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

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

(3) 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.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a request for a Tribe that does not have a reservation or land held in trust, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property

taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request for land to be acquired in trust when a Tribe does not have a reservation or land held in trust, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

**§ 151.13 How will the Secretary act 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 Office of 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 Office of the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

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

(i) Promptly provide the applicant with the decision;

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

(iii) Immediately acquire the land in trust status under § 151.16 after the date such decision is issued and upon fulfillment of the requirements of any other Department of the Interior requirements.

(d) A decision made by a Bureau of Indian Affairs official, rather than the Office of the Secretary or Assistant Secretary, pursuant to delegated authority, is not a final agency action of the Department of the Interior under 5 U.S.C. 704 until administrative remedies are exhausted under part 2 of this chapter and under 43 CFR part 4, subpart D, or until the time for filing a notice of appeal has expired and no administrative appeal has been filed. Administrative appeals are governed by part 2 of this chapter and by 43 CFR part 4, subpart D.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of the 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, by U.S. mail or personal delivery, of the decision and the right, if any, to file an administrative appeal of such decision under part 2 of this chapter and 43 CFR part 4, subpart D 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 status under § 151.16 upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this chapter and under 43 CFR part 4, subpart D, and upon the fulfillment of any

other Department of the Interior requirements.

(3) The administrative appeal period 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; or

(ii) The date of first publication of the notice for unknown interested parties under paragraph (d)(2)(iii) of this section, which shall be deemed the date of receipt of the decision.

(4) Any party who wishes to seek judicial review of an official's decision must first exhaust administrative remedies under 25 CFR part 2 and under 43 CFR part 4, subpart D.

#### § 151.14 How will the Secretary review title?

(a) The applicant must submit title evidence as part of a complete acquisition package as described in § 151.8 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 status; and

(2) Either:

(i) A current title insurance commitment issued by a title company; or

(ii) The policy of title insurance issued by a title company to the applicant or current owner and an abstract of title issued by a title company dating from the time the policy of title insurance was issued to the applicant or current owner to the present. The Secretary may accept a preliminary title report or equivalent document prepared by a title company in place of an abstract of title for purposes of this paragraph (a)(2)(ii) if the applicant provides evidence that the title company will not issue an abstract of title based on practice in the local jurisdiction, subject to the requirements of paragraph (b) of this section.

(3) The applicant may choose to provide title evidence meeting the title

## § 151.15

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 title evidence, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities that the Secretary identified and may seek additional information or action from the applicant needed to address such issues. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to acceptance of the land in trust status if the Secretary determines that the liens, encumbrances, or infirmities make title to the land unmarketable.

### § 151.15 How will the Secretary conduct a review of environmental conditions?

(a) The Secretary shall comply with the requirements of the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*), applicable Council on Environmental Quality regulations (40 CFR parts 1500-1508), and Department of the Interior regulations (43 CFR part 46) and guidance. The Secretary's compliance may require preparation of an environmental impact statement, an environmental assessment, a categorical exclusion, or other documentation that satisfies the requirements of NEPA.

(b) The Secretary shall comply with the terms of 602 DM 2, Land Acquisitions: Hazardous Substances Determinations, or its successor policy if replaced or renumbered, so long as such guidance remains in place and binding. If the Secretary approves a request for the acquisition of land in trust status, the Secretary may then require, before formalization of acceptance pursuant to § 151.16, that the applicant provide information updating a prior pre-acquisition environmental site assessment conducted under 602 DM 2.

(1) If no recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance and all other requirements of this section and §§ 151.13 and 151.14 are met, the Secretary shall acquire the land in trust.

## 25 CFR Ch. I (4-1-24 Edition)

(2) If recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance, the Secretary shall notify the applicant and may seek additional information or action from the applicant to address such issues of concern. The Secretary may require the elimination of any such issues of concern prior to the formalization of acceptance.

### § 151.16 How are formalization of acceptance and trust status attained?

(a) The Secretary shall formalize acceptance of land in trust status by signing an instrument of conveyance. The Secretary shall sign the instrument of conveyance after the requirements of §§ 151.13, 151.14, and 151.15 have been met.

(b) The land will attain trust status when the Secretary signs the instrument of conveyance.

(c) The Secretary shall record the deed with LTRO pursuant to part 150 of this chapter.

### § 151.17 What effect does this part have on pending requests and final agency decisions already issued?

(a) Requests pending on January 11, 2024 will continue to be processed under 25 CFR part 151 (revised as of April 1, 2023) unless the applicant requests in writing to proceed under this part.

(1) Upon receipt of such a request, the Secretary shall process the pending application under this part, except for § 151.8(b)(2).

(2) The Secretary shall consider the comments of State and local governments submitted under the notice provisions of 25 CFR part 151 (revised as of April 1, 2023).

(b) This part does not alter decisions of Bureau of Indian Affairs Officials under appeal on January 11, 2024 or final agency decisions made before January 11, 2024.

### § 151.18 Severability.

If any provision of this part, or any application of a provision, is stayed or determined to be invalid by a court of competent jurisdiction, the remaining provisions or applications are severable and shall continue in effect.



Commitment No. NTT-1229258

**SCHEDULE B, PART II—Exceptions**

**Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.**

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

- A. 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.
- B. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- C. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- D. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- E. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the Public Records.
- F. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
- G. Any lien or right to a lien for services, labor or material unless such lien is shown by the Public Records at Date of Policy.
- H. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, geothermal resources, uranium, clay, rock, sand and gravel

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

1. General and special taxes and assessments for the fiscal year 2024-2025, a lien not yet due or payable.
2. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
3. Water rights, claims or title to water, whether or not shown by the Public Records.
4. Additional matters, if any, following review by the Company's Waterways and Boundaries Underwriters.
5. An easement for a power line for the transmission of electric energy and incidental purposes, recorded May 20, 1938 in Book 5 of Agreements, Page 124.  
In Favor of:                      Public Utilities California Corporation  
Affects:                              Parcels Six and Seven, as described therein

The location of the easement cannot be determined from record information.

6. Right of way for purposes of establishing a necessary water supply ditch for Smith River Indian Rancheria as granted by Clarence Westbrook to United States by deed dated April 13, 1940 and recorded June 07, 1940 in Book 58 of Deeds, Page 266. Exact location not shown of record.
7. An easement for a line of poles with wires and incidental purposes, recorded February 03, 1947 in Book 65 of Deeds, Page 256.  
In Favor of:                      The California Oregon Power Company  
Affects:                              Parcels Six and Seven, as described therein
8. An easement for a line of poles with wires and incidental purposes, recorded October 20, 1949 in Book 69 of Deeds, Page 439.  
In Favor of:                      The California Oregon Power Company  
Affects:                              Parcels Six and Seven, as described therein

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



9. An easement for a line of poles with wires and incidental purposes, recorded January 28, 1966 in Book 117, Page 161 of Official Records.  
In Favor of: Pacific Power & Light Company  
Affects: Parcel Three, as described therein
  
10. An easement for water, sewer pipelines and incidental purposes, recorded August 10, 1977 in Book 207, Page 645 of Official Records.  
In Favor of: Smith River Community Services District  
Affects: Parcel One, as described therein
  
11. A waiver of any claims for damages by reason of the location, construction, landscaping or maintenance of a contiguous freeway, highway, roadway or transit facility as contained in the document recorded July 14, 1981 in Book 257, Page 531 of Official Records.  
  
(Affects Parcel One)
  
12. An easement for drainage and incidental purposes, recorded May 04, 1982 in Book 265, Page 593 of Official Records.  
In Favor of: State of California  
Affects: Parcel Seven, as described therein
  
13. A waiver of any claims for damages by reason of the location, construction, landscaping or maintenance of a contiguous freeway, highway, roadway or transit facility as contained in the document recorded May 04, 1982 in Book 265, Page 593 of Official Records.  
  
(Affects Parcel Seven)
  
14. The terms and provisions contained in the document entitled "Notice of Conditional Approval" recorded August 15, 1986 in Book 313, Page 87 of Official Records. Executed by Del Norte County Planning Department.  
  
(Affects Parcels Six and Seven)
  
15. An easement for ingress and egress and incidental purposes, recorded October 22, 1987 in Book 328, Page 523 of Official Records.  
In Favor of: Greg Forsht  
Affects: Parcel One, as described therein

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



16. An easement shown or dedicated on the map filed or recorded February 27, 1991 in Book 6, Page 221 of Parcel Maps.  
For: Road & utility and incidental purposes.
- (Affects Parcels Six and Seven)
17. The terms and provisions contained in the document entitled "Boundary Line Agreement" recorded October 04, 1991 in Book 379, Page 950 of Official Records. Executed by and between Euel Epperson and Sharon Weatherall.
- (Affects Parcel One)
18. The terms and provisions contained in the document entitled "Notice of Conditional Approval" recorded October 14, 1991 in Book 380, Page 173 of Official Records. Executed by Del Norte County Planning Department.
- (Affects Parcel Five)
19. Covenants, conditions, restrictions and easements in the document recorded December 10, 1992 in Book 399, Page 364 of Official Records, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, marital status, ancestry, source of income or disability, to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
- (Affects Parcel Five)
20. The terms and provisions contained in the document entitled "Covenants Relating to Ocean Heights Roadways and Ocean Heights Road Maintenance Agreement" recorded December 10, 1992 in Book 399, Page 375 of Official Records.
- (Affects Parcel Five)
21. An easement for access to and incidental purposes, recorded August 16, 1995 in Book 444, Page 711 of Official Records.  
In Favor of: Smith River Rancheria  
Affects: Parcel Five, as described therein

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



Document(s) declaring modifications thereof recorded October 25, 1995 in Book 448, Page 730 of Official Records.

22. An easement for water lines, fire hydrants and incidental purposes, recorded September 05, 1995 in Book 445, Page 877 of Official Records.

In Favor of: Smith River Community Services District  
Affects: Parcel Five, as described therein

23. The terms and provisions contained in the document entitled "Notice of Conditional Approval" recorded October 22, 1996 in Book 464, Page 342 of Official Records. Executed by Del Norte County Planning Department.

(Affects Parcel Five)

24. The terms and provisions contained in the document entitled "Notice of Conditional Approval" recorded July 01, 1997 in Book 474, Page 378 of Official Records. Executed by Del Norte County Planning Department.

(Affects Parcel Five)

25. The effect of a map purporting to show the land and other property, filed May 06, 1999 in Book 13, Page 2 of Record of Surveys.

The Record of Survey discloses that a portion of said property lies within Ocean View Drive.

(Affects Parcel One)

26. An easement shown or dedicated on the map filed or recorded September 09, 2005 in Book 10, Page 7 of Parcel Maps.

For: 15' drainage easement for the benefit of Parcels A, B and C and incidental purposes.

(Affects Parcels Six and Seven)

27. Any facts, rights, interests or claims which are not shown by the records of the county recorder, but which could be ascertained by an examination of the records of the Department of Interior, Bureau of Indian Affairs Land Titles and Records Office.

28. Rights of parties in possession.

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



29. Indian tribal codes or regulation, Indian treaty or aboriginal rights, including easement or equitable servitudes.
30. Any claim that the United States lacks proper authority to acquire or hold title to the land, or arising from or related to an alleged defect in the process of approving or authorizing the acquisition of title by the United States of America in Trust for the Tolowa Dee-Ni' Nation, a federally recognized tribe.
31. Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances, or regulation of an Indian tribe or nation.
32. Defects, liens, encumbrances, adverse claims, notices or other matters not appearing in the Public Records but that would be disclosed by an examination of any records maintained by or on behalf of a Tribe or on behalf of its members.
33. Tribal records for any tax, law or regulation are not "public records" within the meaning of the commitment/policy, and this commitment/policy provides no coverage respecting any loss occasioned by any such tribal tax law or regulation.

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



# United States Department of the Interior

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

Received by

NOV 25 2024

Board of Supervisors,  
County of Del Norte

IN REPLY REFER TO

Real Estate Services  
TR-4609-P5

Case Number: 56743

## NOTICE OF NON-GAMING LAND ACQUISITION APPLICATION

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, 151.10 (04-01-2024 Edition) Contiguous, notice is given of the application filed by the Tolowa Dee-ni' Nation (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:**

Tolowa Dee-ni' Nation

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

That real property in the unincorporated area of the County of Del Norte, State of California, described as follows:

## PARCEL ONE

BEGINNING at a two-inch iron pipe monument which is 659.32 feet South and 2644.95 feet East of the Northwest corner of Section 26, Township 18 North, Range 1 West, Humboldt Meridian, and also said pipe monument is 4672.75 feet North and 2640.21 feet East of the Southwest corner of said Section 26; both of said Section corners were reestablished by J.N. Lentell, according to his Map of Record, recorded in Book 2 of Maps, page 8, Records of Del Norte County, California;

thence from point of beginning, South 130.73 feet;

thence South 89 degrees 57 minutes East, 507.00 feet, more or less, to Dominy Creek;

thence along Dominy Creek, North 24 degrees 08 minutes West, 354.65 feet to the center line of County Road;

thence along road, South 62 degrees 00 minutes West, 410.00 feet to the point of beginning and in accordance with the monuments as shown on Map Survey No. 192 made by H.M. Malpas and recorded in Book 3 of Maps, page 76, Records of Del Norte County, California. Except any portion of the above described Parcel which may lie within the Northwest quarter of said Section 26.

## PARCEL TWO

THAT PORTION OF Section 26, Township 18 North, Range 1 West, Humboldt Meridian, described as follows:

Parcel 1 as shown on the Parcel Map filed in the Office of the County Recorder of Del Norte County, California on Map 18, 1984 in Book 5 of Parcel Maps, page 118.

## PARCEL THREE

An easement over that portion of Parcel 2 of said Parcel Map shown as shaded and to be used as a "creek easement for fish hatchery".

### **Project Description/Proposed Land Use:**

The subject property consists of land containing 3.55 acres, more or less, commonly referred to as the Rowdy Creek Fish Hatchery property; Assessor's Parcel Numbers 103-080-026-000, and 103-080-043-000. The subject property is contiguous to land held in trust for the Tribe. There will be no change in use of the land, which is currently being used as the hatchery. Efforts will be made for enhancement of native fisheries that will contribute to a healthier river system, and a healthier watershed and hyporheic zone.

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 Langdon Bueschel, Realty Specialist, (916) 978-6092.

Sincerely,

**RYAN HUNTER** Digitally signed by RYAN HUNTER  
Date: 2024.11.20 15:19:13 -08'00'

Acting Regional Director

Enclosures

cc: Distribution List

DISTRIBUTION LIST

CC:

BY CERTIFIED MAIL:

Senior Advisor for Tribal Negotiations  
Deputy Legal Affairs Secretary  
Office of the Governor  
California State Capitol Building, Ste. 1173  
Sacramento, CA 95814  
Certified Mail ID: 9589 0710 5270 1274 8935 79

T. Michelle Laird, Supervising Deputy Attorney General  
c/o Paula Corral  
State of California, Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2250  
Certified Mail ID: 9589 0710 5270 1274 8935 86

Del Norte County Board of Supervisors  
981 H Street, Suite 200  
Crescent City, CA 95531  
Certified Mail ID: 9589 0710 5270 1274 8935 93

Del Norte County Treasurer  
981 H Street, Suite 120  
Crescent City, CA 95531  
Certified Mail ID: 9589 0710 5270 1274 8936 09

The Honorable Jeri Thompson  
Chairperson, Tolowa Dee-ni' Nation  
12801 Mouth of Smith River Rd.  
Smith River, CA 95567  
Certified Mail ID: 9589 0710 5270 1274 8936 16

BY FIRST CLASS MAIL:

Bureau of Indian Affairs  
Northern California Agency  
Superintendent  
364 Knollcrest Drive, Ste. 105  
Redding, CA 96002

## § 150.401

(b) The fee will be at the rate established by 43 CFR 2, Appendix A.

(c) The LTRO may waive all or part of these fees, at its discretion.

(d) Paid fees are non-refundable.

### Subpart E—Records

#### § 150.401 Who owns the records associated with this part?

(a) The records associated with this part are the property of the United States if they:

(1) Are made or received by the Secretary or a Tribe or Tribal organization in the conduct of a Federal trust function under 25 U.S.C. 5301 *et seq.*, including the operation of a trust program; and

(2) Evidence the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a Federal trust function under this part.

(b) Records not covered by paragraph (a) of this section that are made or received by a Tribe or Tribal organization in the conduct of business with the Department of the Interior under this part are the property of the Tribe.

#### § 150.402 How must records associated with this part be preserved?

(a) Tribes, Tribal organizations, and any other organization that make or receives records described in § 150.401(a) must preserve the records in accordance with approved Departmental records retention procedures under the Federal Records Act, 44 U.S.C. chapters 29, 31 and 33. These records and related records management practices and safeguards required under the Federal Records Act are subject to inspection by the Secretary and the Archivist of the United States.

(b) A Tribe or Tribal organization should preserve the records identified in § 150.401(b) for the period of time authorized by the Archivist of the United States for similar Department of the Interior records in accordance with 44 U.S.C. chapter 33.

#### § 150.403 How does the Paperwork Reduction Act affect this part?

The information collections contained in this part have been approved by the Office of Management and Budget

## 25 CFR Ch. I (4-1-24 Edition)

et under 44 U.S.C 3301 *et seq.* and assigned OMB Control Number 1076-0196. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation containing the collection of information has a currently valid OMB Control Number.

### PART 151—LAND ACQUISITIONS

Sec.

151.1 What is the purpose of this part?

151.2 How are key terms defined?

151.3 What is the Secretary's land acquisition policy?

151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?

151.5 May the Secretary acquire land in trust status by exchange?

151.6 May the Secretary approve acquisition of a fractional interest?

151.7 Is Tribal consent required for non-member acquisitions?

151.8 What documentation is included in a trust acquisition package?

151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?

151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?

151.11 How will the Secretary evaluate a request involving land outside of and non-contiguous to the boundaries of an Indian reservation?

151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

151.13 How will the Secretary act on requests?

151.14 How will the Secretary review title?

151.15 How will the Secretary conduct a review of environmental conditions?

151.16 How are formalization of acceptance and trust status attained?

151.17 What effect does this part have on pending requests and final agency decisions already issued?

151.18 Severability.

AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2, 9, 403a-2, 409a, 1466, 1495, 5107, 5108, 5136, 5138, 5201, 5202, 5322, 5341; Pub. L. 71-780, 46 Stat. 1471, amended by Pub. L. 72-231, 47 Stat. 474; Pub. L. 74-816, 49 Stat. 1967, amended by Sec. 10, Pub. L. 80-336, 61 Stat. 734; Secs. 3, 4, 6, Pub. L. 76-238, 53 Stat. 1129, 1130; Sec. 7, Pub. L. 79-706, 60 Stat. 969, amended by Pub. L. 91-627, 84 Stat. 1874; Pub. L. 81-226, 63 Stat. 605; Pub. L. 84-188, 69 Stat. 392, amended by Pub. L. 88-540, 78 Stat. 747, amended by Sec. 213.

Pub. L. 100-581, 102 Stat. 2941, amended by Sec. 1, Pub. L. 101-301, 104 Stat. 206; Pub. L. 84-592, 70 Stat. 290, amended by Pub. L. 91-274, 84 Stat. 301; Pub. L. 84-772, 70 Stat. 626; Sec. 10, Pub. L. 87-231, 75 Stat. 505; Pub. L. 88-196, 77 Stat. 349; Pub. L. 88-418, 78 Stat. 389; Pub. L. 90-335, 82 Stat. 174, amended by Pub. L. 93-286, 88 Stat. 142; Pub. L. 90-534, 82 Stat. 884; Pub. L. 92-312, 86 Stat. 216; Pub. L. 92-377, 86 Stat. 530; Pub. L. 92-443, 86 Stat. 744; Sec. 11, Pub. L. 93-531, 88 Stat. 1716, amended by Sec. 4, Pub. L. 96-305, 94 Stat. 930, amended by Sec. 106, 98-603, 98 Stat. 3157, amended by Secs. 4(b), 8, Pub. L. 100-666, 102 Stat. 3930, 3933.

SOURCE: 88 FR 86249, Dec. 12, 2023, unless otherwise noted.

#### § 151.1 What is the purpose of this part?

This part sets forth the authorities, policies, and procedures governing the acquisition of land by the United States in trust status for individual Indians and Tribes. This part does not cover acquisition of land by individual Indians and Tribes in fee simple status even though such land may, by operation of law, be held in restricted status following acquisition; acquisition of land mandated by Federal law; acquisition of land in trust status by inheritance or escheat; or transfers of land into restricted fee status unless required by Federal law.

#### § 151.2 How are key terms defined?

*Contiguous* means two parcels of land having a common boundary notwithstanding the existence of non-navigable waters or a public road or right-of-way and includes parcels that touch at a point.

*Fee interest* means an interest in land that is owned in unrestricted fee simple status and is, thus, freely alienable by the fee owner.

*Fractionated tract* means a tract of Indian land owned in common by Indian landowners and/or fee owners holding undivided interests therein.

*Indian land* means any tract in which any interest is held by a Tribe or individual Indian in trust or restricted status and includes both individually owned Indian land and Tribal land.

*Indian landowner* means a Tribe or individual Indian who owns an interest in Indian land.

*Indian reservation* or *Tribe's reservation* means, unless another definition is

required by Federal law authorizing a particular trust acquisition, 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 wherever historic reservations have not yet been reaffirmed, 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.

*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; or

(3) Any other person possessing a total of one-half or more degree Indian blood of a Tribe.

*Initial Indian acquisition* means an acquisition of land in trust status for the benefit of a Tribe that currently has no land held in trust status.

*Interested party* means a person or other entity whose legally protected interests would be affected by a decision.

*Land* means real property or any interest therein.

*Marketable title* means title that a reasonable buyer would accept because it appears to lack substantial defect and that covers the entire property that the seller has purported to sell.

*Preliminary Title Opinion* means an opinion issued by the Office of the Solicitor that reviews the existing status of title, examining both record and non-record title evidence and any encumbrances or liens against the land, and sets forth requirements to be met before acquiring land in trust status.

*Preliminary title report* means a report prepared by a title company prior to issuing a policy of title insurance that shows the ownership of a specific parcel of land together with the liens and encumbrances thereon.

*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 due to limitations contained in the conveyance instrument pursuant to Federal law or because a Federal law directly imposes such limitations.

*Secretary* means the Secretary of the Interior or authorized representative.

*Tribe* means any Indian Tribe listed under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130). For purposes of acquisitions made under the authority of 25 U.S.C. 5136 and 5138, 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. 5124) or section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 5203).

*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.

*Undivided interest* means a fractional share of ownership in an estate of Indian land where the estate is owned in common with other Indian landowners or fee owners.

**§ 151.3 What is the Secretary's land acquisition policy?**

(a) It is the Secretary's policy to acquire land in trust status through direct acquisition or transfer for individual Indians and Tribes to strengthen self-determination and sovereignty, ensure that every Tribe has protected homelands where its citizens can maintain their Tribal existence and way of life, and consolidate land ownership to strengthen Tribal governance over reservation lands and reduce checkerboarding. The Secretary retains discretion whether to acquire land in trust status where discretion is granted under Federal law. Land not held in trust or restricted status may only be acquired for an individual Indian or a Tribe in trust status when the acquisition is authorized by Federal law. No acquisition of land in trust status under these regulations, including a transfer of land already held in trust or restricted status, shall be valid unless the acquisition is approved by the Secretary.

(b) Subject to the provisions of Federal law authorizing trust land acquisitions, the Secretary may acquire land for a Tribe in trust status:

(1) When the land is located within the exterior boundaries of the Tribe's reservation or contiguous thereto;

(2) When the Tribe already owns an interest in the land; or

(3) When the Secretary determines that the acquisition of the land will further Tribal interests by establishing a Tribal land base or protecting Tribal homelands, protecting sacred sites or cultural resources and practices, establishing or maintaining conservation or environmental mitigation areas, consolidating land ownership, reducing checkerboarding, acquiring land lost through allotment, protecting treaty or subsistence rights, or facilitating Tribal self-determination, economic development, Indian housing, or for other reasons the Secretary determines will support Tribal welfare.

(c) Subject to the provisions contained in Federal law which authorize land acquisitions or holding land in trust or restricted status, the Secretary may acquire land in trust status for an individual Indian:

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

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

**§ 151.4 How will the Secretary determine that statutory authority exists to acquire land in trust status?**

When a Tribe's application relies on the first definition of "Indian" in the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 5101 *et seq.*) (IRA) to establish statutory authority for the proposed acquisition, the Secretary will apply the following criteria to determine whether the Tribe was under Federal jurisdiction in 1934.

(a) In determining whether a Tribe was "under Federal jurisdiction" in 1934 within the meaning of section 19 of the IRA (48 Stat. 988; 25 U.S.C. 5129), the Secretary shall consider evidence of Federal jurisdiction in the manner provided in paragraphs (a)(1) through (5) of this section.

(1) Conclusive evidence establishes in and of itself both that a Tribe was

placed under Federal jurisdiction and that this jurisdiction remained intact in 1934. If such evidence exists, no further analysis under this section is needed. The following is conclusive evidence that a Tribe was under Federal jurisdiction in 1934:

(i) A vote under section 18 of the IRA (48 Stat. 988; 25 U.S.C. 5125) to accept or reject the IRA as recorded in *Ten Years of Tribal Government Under I.R.A.*, Theodore Haas, United States Indian Service (Jan. 1947) (Haas List) or other Federal government document;

(ii) Land held in trust by the United States for the Tribe in 1934.

(iii) Secretarial approval of a Tribal constitution under section 16 of the IRA as recorded in the Haas List or other Federal Government document;

(iv) Secretarial approval of a charter of incorporation issued to a Tribe under section 17 of the IRA as recorded in the Haas List or other Federal Government document;

(v) An Executive Order for a specific Tribe that was still in effect in 1934;

(vi) Treaties to which a Tribe is a party, ratified by the United States and still in effect as to that party in 1934;

(vii) Continuing existence in 1934 or later of treaty rights guaranteed by a treaty ratified by the United States; or

(viii) Other evidence that the Secretary determines is conclusive in a particular case.

(2) Presumptive evidence is indicative that a Tribe was placed under Federal jurisdiction in or before 1934 and may indicate that such jurisdiction remained intact in 1934. In the absence of evidence indicating that Federal jurisdiction did not exist or did not exist in 1934, presumptive evidence satisfies the analysis under this section. The following is presumptive evidence that a Tribe was under Federal jurisdiction in 1934:

(i) Evidence of treaty negotiations or evidence a Tribe signed a treaty with the United States whether or not such treaty was ratified by Congress;

(ii) Listing of a Tribe in the Department of the Interior's 1934 Indian Population Report;

(iii) Evidence that the United States took efforts to acquire lands on behalf

of a Tribe in the years leading up to the passage of the IRA;

(iv) Inclusion in Volume V of Charles J. Kappler's *Indian Affairs, Laws and Treaties*;

(v) Federal legislation for a specific Tribe, including land claim settlements and termination legislation enacted after 1934, which acknowledges the existence of a government-to-government relationship with a Tribe in or before 1934; or

(vi) Satisfaction of the criterion for Federal acknowledgment now located at 25 CFR 83.11(a) and previously located at 25 CFR 83.7(a), requiring that a Tribe "has been identified as an American Indian entity on a substantially continuous basis," through evidence that brought the Tribe under Federal jurisdiction in or before 1934; or

(vii) Other evidence that the Secretary determines is presumptive in a particular case.

(3) In the absence of evidence identified above as conclusive or presumptive evidence, the Secretary may find that a Tribe was under Federal jurisdiction in 1934 when the United States in 1934 or at some point in the Tribe's history prior to 1934, took an action or series of actions that, when viewed in concert through a course of dealings or other relevant acts on behalf of a Tribe, or in some instances Tribal members, establishes or generally reflects Federal obligations, or duties, responsibility for or authority over the Tribe, and that such jurisdictional status remained intact in 1934.

(i) Examples of Federal actions that exhibit probative evidence of Federal jurisdiction may include but are not limited to, the Department's acquisition of land for a Tribe in implementing the Indian Reorganization Act of 1934, efforts by the Federal Government to conduct a vote under section 18 of the IRA to accept or reject the IRA where no vote was held, the attendance of Tribal members at Bureau of Indian Affairs operated schools, Federal decisions regarding whether to remove or not remove a Tribe from its homelands, the inclusion of a Tribe in Federal reports and surveys, the inclusion of a Tribe or Tribal members in Federal census records prepared by the

## § 151.5

Office of Indian Affairs, the approval of contracts between a Tribe and non-Indians; enforcement of the Trade and Intercourse Acts (Indian trader, liquor laws, and land transactions), and the provision of health and social services to a Tribe or Tribal members.

(i) [Reserved]

(4) When a Tribe is recognized under the 25 CFR part 83 process, the Secretary may rely on any evidence within the part 83 record that the Tribe was under Federal jurisdiction in or before 1934, consistent with § 151.4(a)(2) and (3).

(5) Evidence of executive officials disavowing Federal jurisdiction over a Tribe in certain instances is not conclusive evidence of a Tribe's Federal jurisdictional status. This is because such disavowals cannot themselves revoke Federal jurisdiction over a Tribe.

(b) For some Tribes, Congress enacted legislation after 1934 making the IRA applicable to the Tribe. The existence of such legislation making the IRA and its trust acquisition provisions applicable to a Tribe eliminates the need to determine whether a Tribe was under Federal jurisdiction in 1934.

(c) In order to be eligible for trust acquisitions under section 5 of the IRA, no additional "under Federal jurisdiction" analysis is required under this part for Tribes for which the Department has previously issued an analysis finding the Tribe was under Federal jurisdiction.

(d) Land may be acquired in trust status for an individual Indian or a Tribe in the State of Oklahoma under section 5 of the IRA if the acquisition comes within the terms of this part. This authority is in addition to all other statutory authority for such an acquisition.

(e) The Secretary may also acquire land in trust status for an individual Indian or a Tribe under this part when specifically authorized by Federal law other than section 5 of the IRA, subject to any limitations contained in that Federal law.

### § 151.5 May the Secretary acquire land in trust status by exchange?

The Secretary may acquire land in trust status on behalf of an individual Indian or Tribe by exchange under this

## 25 CFR Ch. I (4-1-24 Edition)

part if authorized by Federal law and within the terms of this part. The disposal aspects of an exchange are governed by part 152 of this title.

### § 151.6 May the Secretary approve acquisition of a fractional interest?

Where the mandatory acquisition process provided under 25 U.S.C. 2216(c) is not applicable to a fractional interest acquisition, *e.g.*, where the acquisition proposed is off-reservation, the following section applies to discretionary acquisitions of fractional interests. The Secretary may approve the acquisition of a fractional interest in a fractionated tract in trust status by an individual Indian or a Tribe including when:

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

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

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

(d) There is a specific law which grants to the applicant the right to purchase an undivided interest or interests in trust or restricted land without offering to purchase all such interests; or

(e) The owner or owners of more than fifty percent of the remaining trust or restricted interests in the parcel consent in writing to the acquisition by the applicant.

### § 151.7 Is Tribal consent required for nonmember acquisitions?

An individual Indian or Tribe may acquire land in trust status on an Indian 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.

### § 151.8 What documentation is included in a trust acquisition package?

An individual Indian or Tribe seeking to acquire land in trust status must

file a written request, *i.e.*, application, with the Secretary. The request need not be in any special form but must set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of this part. The Secretary will prepare the acquisition package using information provided by the applicant and analysis developed by the Secretary, as described in paragraphs (a)(1) through (9) of this section:

(a) A complete acquisition package consists of the following:

(1) The applicant must submit a request that the land be acquired in trust, as follows:

(i) If the applicant is an Indian Tribe, the Tribe's written request must be a signed Tribal letter for trust acquisition supported by a Tribal resolution or other act of the governing body of the Tribe;

(ii) If the applicant is an individual Indian, the individual's written request must be a signed letter requesting trust status;

(2) The applicant must submit documentation providing the information evaluated by the Secretary under § 151.9(a)(2) and (3), § 151.10(a)(2) and (3), § 151.11(a)(2) and (3), or § 151.12(a)(2) and (3) depending on which section applies to the application;

(3) The applicant must submit a statement identifying the existence of statutory authority for the acquisition including, if applicable, any supporting evidence that the Tribe was under Federal jurisdiction in 1934 pursuant to § 151.4.

(4) The applicant must submit a description of the land as follows:

(i) An aliquot part, government lot, parcel identified on a Government Land Office or Bureau of Land Management official survey plat, or lot block subdivision (LBS) legal description of the land and a map from the applicant, including a statement of the estate to be acquired, *e.g.*, all surface and mineral rights, surface rights only, surface rights and a portion of the mineral rights, etc.; or

(ii) A metes and bounds land description and survey if the land cannot be described by the methods listed in paragraph (a)(4)(i) of this section, in-

cluding a statement of the estate to be acquired. The survey may be completed by a land surveyor registered in the jurisdiction in which the land is located when the land being acquired is fee simple land; and

(iii) An application package is not complete until the Secretary determines that the legal description or survey is sufficient.

(5) The applicant must submit information that allows the Secretary to comply with the National Environmental Policy Act (NEPA) and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations pursuant to § 151.15; and

(i) An acquisition package is not complete until the public review period of a final environmental impact statement or, where appropriate, the final environmental assessment has concluded, or the categorical exclusion documentation is complete.

(ii) An acquisition package is not complete until a pre-acquisition Phase I environmental site assessment, and if necessary, a Phase II environmental site assessment completed pursuant to 602 DM 2 is determined to be sufficient by the Secretary.

(6) The applicant must submit title evidence pursuant to § 151.14.

(i) An acquisition package is not complete until the Secretary completes a Preliminary Title Opinion based on such evidence;

(ii) [Reserved]

(7) The Secretary shall send notification letters pursuant to § 151.9, § 151.10, § 151.11, or § 151.12.

(8) The applicant must submit a statement that any existing covenants, easements, or restrictions of record will not interfere with the applicant's intended use of the land; and

(9) The applicant must submit any additional information or action requested by the Secretary, in writing, if warranted by the specific application.

(b) After the Bureau of Indian Affairs is in possession of a complete acquisition package, the Secretary shall:

(1) Notify the applicant within 30 calendar days in writing that the acquisition package is complete; and

(2) Issue a decision on a request within 120 calendar days after issuance of

**§ 151.9**

**25 CFR Ch. I (4-1-24 Edition)**

the notice of a complete acquisition package.

**§ 151.9 How will the Secretary evaluate a request involving land within the boundaries of an Indian reservation?**

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located within the boundaries of an Indian reservation.

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

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

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

(4) 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.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a Tribe's request for land within the boundaries of an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes,

and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request to have land acquired in trust within the boundaries of an Indian reservation the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired of the applicant's request. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.

**§ 151.10 How will the Secretary evaluate a request involving land contiguous to the boundaries of an Indian reservation?**

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when the land is located contiguous to an Indian reservation:

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

(2) If the applicant is an individual Indian, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;

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

(4) 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.

(b) The Secretary shall give great weight to acquiring land that serves

any of the following purposes, in accordance with §151.3:

- (1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;
- (2) Protects sacred sites or cultural resources and practices;
- (3) Establishes or maintains conservation or environmental mitigation areas;
- (4) Consolidates land ownership;
- (5) Reduces checkerboarding;
- (6) Acquires land lost through allotment;
- (7) Protects treaty or subsistence rights; or
- (8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a Tribe's request for land contiguous to an Indian reservation, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request to have land contiguous to an Indian reservation acquired in trust status, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In considering such comments, the Secretary presumes that the Tribal community will benefit from the acquisition.

**§ 151.11 How will the Secretary evaluate a request involving land outside of and noncontiguous to the boundaries of an Indian reservation?**

(a) The Secretary shall consider the criteria in this section when evaluating

requests for the acquisition of land in trust status when the land is located outside of and noncontiguous to an Indian reservation:

- (1) The existence of statutory authority for the acquisition and any limitations contained in such authority;
- (2) If the applicant is an individual Indian and the land is already held in trust or restricted status, the need for additional land, the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs;
- (3) The purposes for which the land will be used; and
- (4) 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.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with §151.3:

- (1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;
- (2) Protects sacred sites or cultural resources and practices;
- (3) Establishes or maintains conservation or environmental mitigation areas;
- (4) Consolidates land ownership;
- (5) Reduces checkerboarding;
- (6) Acquires land lost through allotment;
- (7) Protects treaty or subsistence rights; or
- (8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) Upon receipt of a written request to have land outside the boundaries of an Indian reservation acquired in trust status, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments on the acquisition's potential impact on regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments

will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

**§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?**

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when a Tribe does not have a reservation or land held in trust.

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

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

(3) 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.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a request for a Tribe that does not have a reservation or land held in trust, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property

taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request for land to be acquired in trust when a Tribe does not have a reservation or land held in trust, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

**§ 151.13 How will the Secretary act 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 Office of 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 Office of the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

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

(i) Promptly provide the applicant with the decision;

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

(iii) Immediately acquire the land in trust status under § 151.16 after the date such decision is issued and upon fulfillment of the requirements of any other Department of the Interior requirements.

(d) A decision made by a Bureau of Indian Affairs official, rather than the Office of the Secretary or Assistant Secretary, pursuant to delegated authority, is not a final agency action of the Department of the Interior under 5 U.S.C. 704 until administrative remedies are exhausted under part 2 of this chapter and under 43 CFR part 4, subpart D, or until the time for filing a notice of appeal has expired and no administrative appeal has been filed. Administrative appeals are governed by part 2 of this chapter and by 43 CFR part 4, subpart D.

(1) If the official denies the request, the official shall promptly provide the applicant with the decision and notification of the 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, by U.S. mail or personal delivery, of the decision and the right, if any, to file an administrative appeal of such decision under part 2 of this chapter and 43 CFR part 4, subpart D 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 status under § 151.16 upon expiration of the time for filing a notice of appeal or upon exhaustion of administrative remedies under part 2 of this chapter and under 43 CFR part 4, subpart D, and upon the fulfillment of any

other Department of the Interior requirements.

(3) The administrative appeal period 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; or

(ii) The date of first publication of the notice for unknown interested parties under paragraph (d)(2)(iii) of this section, which shall be deemed the date of receipt of the decision.

(4) Any party who wishes to seek judicial review of an official's decision must first exhaust administrative remedies under 25 CFR part 2 and under 43 CFR part 4, subpart D.

#### § 151.14 How will the Secretary review title?

(a) The applicant must submit title evidence as part of a complete acquisition package as described in § 151.8 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 status; and

(2) Either:

(i) A current title insurance commitment issued by a title company; or

(ii) The policy of title insurance issued by a title company to the applicant or current owner and an abstract of title issued by a title company dating from the time the policy of title insurance was issued to the applicant or current owner to the present. The Secretary may accept a preliminary title report or equivalent document prepared by a title company in place of an abstract of title for purposes of this paragraph (a)(2)(ii) if the applicant provides evidence that the title company will not issue an abstract of title based on practice in the local jurisdiction, subject to the requirements of paragraph (b) of this section.

(3) The applicant may choose to provide title evidence meeting the title

## § 151.15

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 title evidence, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities that the Secretary identified and may seek additional information or action from the applicant needed to address such issues. The Secretary may require the elimination of any such liens, encumbrances, or infirmities prior to acceptance of the land in trust status if the Secretary determines that the liens, encumbrances, or infirmities make title to the land unmarketable.

### § 151.15 How will the Secretary conduct a review of environmental conditions?

(a) The Secretary shall comply with the requirements of the National Environmental Policy Act (NEPA) (43 U.S.C. 4321 *et seq.*), applicable Council on Environmental Quality regulations (40 CFR parts 1500-1508), and Department of the Interior regulations (43 CFR part 46) and guidance. The Secretary's compliance may require preparation of an environmental impact statement, an environmental assessment, a categorical exclusion, or other documentation that satisfies the requirements of NEPA.

(b) The Secretary shall comply with the terms of 602 DM 2, Land Acquisitions: Hazardous Substances Determinations, or its successor policy if replaced or renumbered, so long as such guidance remains in place and binding. If the Secretary approves a request for the acquisition of land in trust status, the Secretary may then require, before formalization of acceptance pursuant to § 151.16, that the applicant provide information updating a prior pre-acquisition environmental site assessment conducted under 602 DM 2.

(1) If no recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance and all other requirements of this section and §§ 151.13 and 151.14 are met, the Secretary shall acquire the land in trust.

## 25 CFR Ch. I (4-1-24 Edition)

(2) If recognized environmental conditions or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance, the Secretary shall notify the applicant and may seek additional information or action from the applicant to address such issues of concern. The Secretary may require the elimination of any such issues of concern prior to the formalization of acceptance.

### § 151.16 How are formalization of acceptance and trust status attained?

(a) The Secretary shall formalize acceptance of land in trust status by signing an instrument of conveyance. The Secretary shall sign the instrument of conveyance after the requirements of §§ 151.13, 151.14, and 151.15 have been met.

(b) The land will attain trust status when the Secretary signs the instrument of conveyance.

(c) The Secretary shall record the deed with LTRO pursuant to part 150 of this chapter.

### § 151.17 What effect does this part have on pending requests and final agency decisions already issued?

(a) Requests pending on January 11, 2024 will continue to be processed under 25 CFR part 151 (revised as of April 1, 2023) unless the applicant requests in writing to proceed under this part.

(1) Upon receipt of such a request, the Secretary shall process the pending application under this part, except for § 151.8(b)(2).

(2) The Secretary shall consider the comments of State and local governments submitted under the notice provisions of 25 CFR part 151 (revised as of April 1, 2023).

(b) This part does not alter decisions of Bureau of Indian Affairs Officials under appeal on January 11, 2024 or final agency decisions made before January 11, 2024.

### § 151.18 Severability.

If any provision of this part, or any application of a provision, is stayed or determined to be invalid by a court of competent jurisdiction, the remaining provisions or applications are severable and shall continue in effect.



Commitment No. NTTS-1229257

**SCHEDULE B, PART II—Exceptions**

**Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.**

The Policy will not insure against loss or damage resulting from the terms and conditions 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.
2. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
3. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
4. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
5. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the Public Records.
6. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
7. Any lien or right to a lien for services, labor or material unless such lien is shown by the Public Records at Date of Policy.
8. Any claim to (a) ownership of or rights to minerals and similar substances, including but not limited to ores, metals, coal, lignite, oil, gas, geothermal resources, uranium, clay, rock, sand and gravel

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



located in, on, or under the Land or produced from the Land, whether such ownership or rights arise by lease, grant, exception, conveyance, reservation, or otherwise; and (b) any rights, privileges, immunities, rights of way, and easements associated therewith or appurtenant thereto, whether or not the interests or rights excepted in (a) or (b) appear in the Public Records or are shown in Schedule B.

9. General and special taxes and assessments for the fiscal year 2024-2025, a lien not yet due or payable.
10. The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.
11. Rights of the public in and to that portion of the land lying within County Roads as disclosed by deed recorded August 24, 1885 in Book H of Deeds, Page 398.
12. An easement for poles lines and incidental purposes, recorded August 22, 1947 in Book 66 of Deeds, Page 301.  
In Favor of:           The California Oregon Power Company, a  
                                  California corporation  
Affects:                 As Described Therein
13. The effect of a document entitled Agreements, recorded November 28, 1950 in Book 6 of Agreements, Pages 299, 301, 303, 305, 306 and 319 of Official Records.
14. An easement for freeway and incidental purposes, recorded February 07, 1950 in Book 70 of Deeds, Page 198 and 199.  
In Favor of:           The State of California  
Affects:                 As Described Therein
15. Effect of the relinquishment of abutter's rights and waiver of damages as contained in deeds to the State of California, recorded February 07, 1950 in Book 70 of Deeds, Pages 198 and 199, and by deed recorded August 13, 1959 in Book 58 of Official Records, page 527, and as modified by Director's Deed from the State of California, recorded August 13, 1959 in Book 58 of Official Records, Page 531.

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



16. An easement for road and utility and incidental purposes, recorded September 23, 1964 in Book 103, Page 96 of Official Records.  
In Favor of: County of Del Norte  
Affects: As Described Therein
  
17. The effect of a document entitled Relinquishment of Highway Right of Way in the County of Del Norte, Road 01-DN-101-39.7-40.9, recorded January 30, 1968 in Book 132, Page 117 of Official Records.
  
18. The effect of a document entitled Resolution Abandoning a Portion of North Street, Del Norte County Road Number 310-A in the Town of Smith River, recorded July 30, 1971 in Book 157, Page 380 of Official Records.
  
19. An easement for public utilities and incidental purposes, recorded March 15, 1973 in Book 169, Page 288 of Official Records.  
In Favor of: Smith River Community Services District, a public agency  
Affects: As Described Therein
  
20. An easement for public utilities and incidental purposes, recorded March 20, 1973 in Book 169, Page 370 of Official Records.  
In Favor of: Smith River Community Services District, a public agency  
Affects: As Described Therein
  
21. An easement for ingress, egress and movement of machinery, equipment and vehicles for timber harvesting and incidental purposes in the document recorded June 25, 1979 in Book 233, Pages 137, 142, 145, 153 and 164 of Official Records.
  
22. The effect of a document entitled Grants of Easements (Easement Agreement) July 02, 1979, recorded July 02, 1979 in Book 233, Page 371 of Official Records.
  
23. Conditions imposed by the County of Del Norte in Notice of Conditional Approval recorded May 3, 1991 in Book 373, Page 729 of Official Records.
  
24. The terms and provisions contained in the document entitled "Notice of Conditional Approval" recorded January 12, 2022 as Instrument No. 2022-155 of Official Records.

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



25. The terms and provisions contained in the document entitled "Notice of Conditional Approval" recorded October 25, 2023 as Instrument No. 2023-3629 of Official Records.
26. Rights of the public in and to that portion of the land lying within County Roads.
27. We find no outstanding voluntary liens of record affecting subject property. An inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest in the subject property.
28. This item has been intentionally deleted.
29. Water rights, claims or title to water, whether or not shown by the Public Records.
30. An ALTA/NSPS survey of recent date which complies with the current minimum standard detail requirements for ALTA/NSPS land title surveys.
31. Any facts, rights, interests or claims which would be disclosed by a correct ALTA/NSPS survey.
32. Rights of parties in possession.
33. Any rights, interests, or easements in favor of the public, which exist or are claimed to exist over any portion of said land covered by water, including a public right of access to the water.
34. Indian tribal codes or regulation, Indian treaty or aboriginal rights, including easement or equitable servitudes.
35. Any claim that the United States lacks proper authority to acquire or hold title to the land, or arising from or related to an alleged defect in the process of approving or authorizing the acquisition of title by the United States of America in Trust for the Tolowa Dee-ni' Nation, a federally recognized tribe.
36. Paragraphs 1 and 2 of the Exclusions from Coverage are expressly extended to include those laws, ordinances, or regulation of an Indian tribe or nation.
37. Defects, liens, encumbrances, adverse claims, notices or other matters not appearing in the Public Records but that would be disclosed by an examination of any records maintained by or on behalf of a Tribe or on behalf of its members.
38. Tribal records for any tax, law or regulation are not "public records" within the meaning of the commitment/policy, and this commitment/policy provides no coverage respecting any loss occasioned by any such tribal tax law or regulation.

*This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by First American Title Insurance Company. 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 counter-signature by the Company or its issuing agent that may be in electronic form.*

---

**\* Copyright 2024 First American Financial Corporation. All rights reserved.**

All information, data, and material created or compiled by or on behalf of First American Financial Corporation is restricted and may not be copied or used for derivative products/services without the prior express written permission of First American Financial Corporation.

---

**\*\* Copyright 2021 American Land Title Association. All rights reserved.**

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.