



File Copy

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## United States Department of the Interior

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

Governor's Office of Planning & Research

MAR 04 2019

FEB 26 2019

STATE CLEARINGHOUSE

### Notice of On-Reservation Land Acquisition Application (Non-Gaming)

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

1. The annual 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 governmental 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

Big Valley Band of Pomo Indians of the Big Valley Rancheria, California

#### LEGAL LAND DESCRIPTION

The land referred to herein below is situated in the unincorporated area, County of Lake, State of California and is described as follows:

Parcels 34, 35, 38, 39, 41, 52 and 55, as shown on that certain map entitled "Record of Survey for U.S. Dept. of the Interior Bureau of Indian Affairs - The Big Valley Rancheria", filed April 18, 1961 in Book 2 of Record of Surveys at Pages 1 through 4, inclusive, Lake County Records.

## **PROPOSED LAND USE/SITE LOCATION**

The subject property consists of seven parcels totaling 2.08 acres, more or less, commonly referred to as Assessor's Parcel Numbers 044-453-060, 044-453-090, 044-453-200, 044-453-220, 044-453-230, 044-453-260, and 044-453-270, also known as the "Mission Way" property. The parcel(s) of land are contiguous to tribal trust property and are located within the exterior boundaries of the Big Valley Rancheria.

Currently, the property has a single family residence on three of the parcels, tribal government offices on one parcel and no disturbance on the remaining parcel. The parcels are all zoned single family residential, floodway fringe. The tribe plans to retain the existing use of the property which will facilitate self-determination by preserving the land for future generations to come.

## **CURRENT TAXES AND ZONING**

Assessed property taxes for 2018-2019:

044-453-060 - \$167.66  
044-453-090 - \$171.94  
044-453-200 - \$232.98  
044-453-220 - \$207.62  
044-453-230 - \$121.20  
044-453-260 - \$207.62  
044-453-270 - \$229.58

## **EXISTING EASEMENTS/ENCUMBRANCES**

*See attached Schedule B*

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

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

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

be provided to the applicant. You will be notified of the decision to approve or deny the application.

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

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy H. Lutschke".

Regional Director

Enclosures

cc: Distribution List

## DISTRIBUTION LIST

California State Clearinghouse (10 copies) – 7016 3010 0001 0589 2836  
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Senior Advisor for Tribal Negotiations – 7016 3010 0001 0589 2843  
Office of the Governor  
State Capitol Building, Suite 1173  
Sacramento, CA 95814

Sara Drake, Deputy Attorney General – 7016 3010 0001 0589 2850  
State of California  
Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

U.S. Senator Dianne Feinstein – 7016 3010 0001 0589 2867  
331 Hart Senate Building  
Washington, DC 20510

Lake County Board of Supervisors – 7016 3010 0001 0589 2874  
255 North Forbes St.  
Lakeport, CA 95453

Lake County – 7016 3010 0001 0589 2881  
Office of the Assessor  
255 North Forbes St.  
Lakeport, CA 95453

Lake County – 7016 3010 0001 0589 2898  
Planning Department  
255 North Forbes St.  
Lakeport, CA 95453

Lake County Public Works – 7016 3010 0001 0589 2904  
255 North Forbes St.  
Lakeport, CA 95453

Lake County Treasurer & Tax Collector – 7016 3010 0001 0589 2911  
255 North Forbes St.  
2<sup>nd</sup> Floor, Rm 215  
Lakeport, CA 95453

Lake County Sheriff's Department – 7016 3010 0001 0589 2928  
1220 Martin St.  
Lakeport, CA 95453

Chairperson – 7016 3010 0001 0589 2829  
Big Valley Rancheria  
2726 Mission Rancheria Road  
Lakeport, CA 95453

Chairperson – 7016 3010 0001 0589 2935  
Robinson Rancheria  
P.O. Box 4015  
Nice, CA 95464

Chairperson – 7016 3010 0001 0589 2942  
Scotts Valley Rancheria  
1005 Parallel Drive  
Lakeport, CA 95453

Chairperson – 7016 3010 0001 0589 2959  
Elem Indian Colony  
P.O. Box 757  
Lower Lake, CA 95457

Chairperson – 7016 3010 0001 0589 2966  
Upper Lake Rancheria  
P.O. Box 516  
Upper Lake, CA 95485

Chairperson – 7016 3010 0001 0589 2973  
Hopland Rancheria  
3000 Shanel Road  
Hopland, CA 95449

**Regular Mail:**

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

**SCHEDULE B - SECTION II  
EXCEPTIONS**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

- a. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records, or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by the Commitment
- b. In addition to the Exceptions shown below, any standard coverage policy of title insurance issued under the terms of this commitment will contain the applicable Exclusions and Exceptions shown on attached list.

**EXCEPTIONS:**

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2017-2018.

2. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area: 057-010  
 Tax Identification No.: 044-453-060-000  
 Fiscal Year: 2016-2017  
 1st Installment: \$85.30 Paid  
 2nd Installment: \$85.30 Open  
 Exemption: \$0.00  
 Land: \$4,889.00  
 Improvements: \$1,095.00  
 Personal Property: \$0.00

3. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area: 057-010  
 Tax Identification No.: 044-453-090-000  
 Fiscal Year: 2016-2017  
 1st Installment: \$90.07 Paid  
 2nd Installment: \$90.07 Open  
 Exemption: \$0.00  
 Land: \$2,120.00  
 Improvements: \$0.00  
 Personal Property: \$0.00

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**SCHEDULE B - SECTION II  
EXCEPTIONS**

(continued)

4. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area:	057-010
Tax Identification No.:	044-453-200-000
Fiscal Year:	2016-2017
1st Installment:	\$119.94 Paid
2nd Installment:	\$119.94 Open
Exemption:	\$0.00
Land:	\$7,631.00
Improvements:	\$0.00
Personal Property:	\$0.00

5. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area:	057-010
Tax Identification No.:	044-453-220-000
Fiscal Year:	2016-2017
1st Installment:	\$107.47 Paid
2nd Installment:	\$107.47 Open
Exemption:	\$0.00
Land:	\$5,200.00
Improvements:	\$0.00
Personal Property:	\$0.00

6. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area:	057-010
Tax Identification No.:	044-453-230-000
Fiscal Year:	2016-2017
1st Installment:	\$59.22 Paid
2nd Installment:	\$59.22 Open
Exemption:	\$0.00
Land:	\$9,605.00
Improvements:	\$0.00
Personal Property:	\$0.00

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ALTA Commitment (06/17/2006)



**SCHEDULE B - SECTION II  
EXCEPTIONS**

(continued)

7. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area: 057-010  
 Tax Identification No.: 044-453-260-000  
 Fiscal Year: 2016-2017  
 1st Installment: \$107.47 Paid  
 2nd Installment: \$107.47 Open  
 Exemption: \$0.00  
 Land: \$5,200.00  
 Improvements: \$0.00  
 Personal Property: \$0.00

8. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area: 057-010  
 Tax Identification No.: 044-453-270-000  
 Fiscal Year: 2016-2017  
 1st Installment: \$118.29 Paid  
 2nd Installment: \$118.29 Open  
 Exemption: \$0.00  
 Land: \$7,337.00  
 Improvements: \$0.00  
 Personal Property: \$0.00

9. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring prior to Date of Policy.

10. Any taxes, assessments or charges levied by the following agency. Amounts due, if any, may be ascertained by contacting the agency.

Lake County Sanitation and Sewer District, (707) 263-0119

11. Water rights, claims or title to water, whether or not disclosed by the public records.
12. Any assertion that the acquisition by the United States in trust for Indian Tribe in question was without authority.
13. Notes, Recitals, Legends and/or Conditions as contained on the map filed April 18, 1961 in Book 2 of Record of Surveys at Pages 1 through 4, inclusive.

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ALTA Commitment (06/17/2006)





**SCHEDULE B - SECTION II**  
**EXCEPTIONS**  
(continued)

14. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 421, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 38

15. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 426, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 35

16. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 427, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 34

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**SCHEDULE B - SECTION II  
EXCEPTIONS**  
(continued)

## 17. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 432, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 39

## 18. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 446, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 41

## 19. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 460, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 52

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ALTA Commitment (06/17/2006)



**SCHEDULE B - SECTION II  
EXCEPTIONS**

(continued)

## 20. Matters contained in that certain document

Entitled: Deed  
Dated: June 22, 1964  
Executed by: United States of America, Department of the Interior, acting by and through the Area Director of the Sacramento Area Office, Bureau of Indian Affairs  
Recording Date: June 24, 1964  
Recording No.: Book 431, Page 476, of Official Records

Reference is hereby made to said document for full particulars.

Affects: Parcel 55

## 21. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the public records.

## 22. Matters which may be disclosed by an inspection and/or by a correct ALTA/NSPS Land Title Survey of said Land that is satisfactory to the Company, and/or by inquiry of the parties in possession thereof.

**NOTES:**

## a. \*\*\* IMPORTANT RECORDING NOTE \*\*\*

Please send all original documents for recording to the following office:

Fidelity National Title Company  
377 Lakeport Blvd.  
Lakeport, CA 95453  
Attn: Rita Abbey  
Telephone: (707) 263-0127

Please direct all other title communication and copies of documents, including recording release instructions, policy write up instructions, lenders instructions and settlement statements, to the Title Only Department at the following address:

Fidelity National Title Group  
Sacramento Title Services  
Title Only Department/ FLAGS  
11050 Olson Drive, Suite 200  
Rancho Cordova, California 95670  
Telephone: (916) 853-7665

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ALTA Commitment (06/17/2006)



**SCHEDULE B - SECTION II  
EXCEPTIONS**

(continued)

- b. The name(s) of the proposed insured(s) furnished with this application for title insurance is/are:  
Name(s) furnished: **Name(s) not yet provided.**  
If these name(s) are incorrect, incomplete or misspelled, please notify the Company.
- c. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
- d. Note: The charge for a policy of title insurance, when issued through this title order, will be based on the Basic Title Insurance Rate.
- e. Your application for title insurance was placed by reference to only a street address or tax identification number. Based on our records, we believe that the legal description in this report covers the parcel(s) of Land that you requested. If the legal description is incorrect, the seller/borrower must notify the Company and/or the settlement company in order to prevent errors and to be certain that the correct parcel(s) of Land will appear on any documents to be recorded in connection with this transaction and on the policy of title insurance.
- f. If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.
- g. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

**END OF SCHEDULE B - SECTION II**

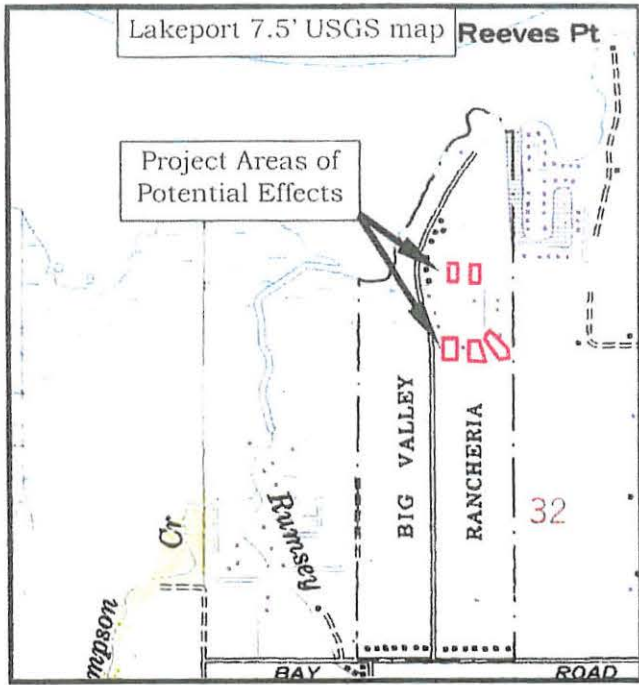
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ALTA Commitment (06/17/2006)

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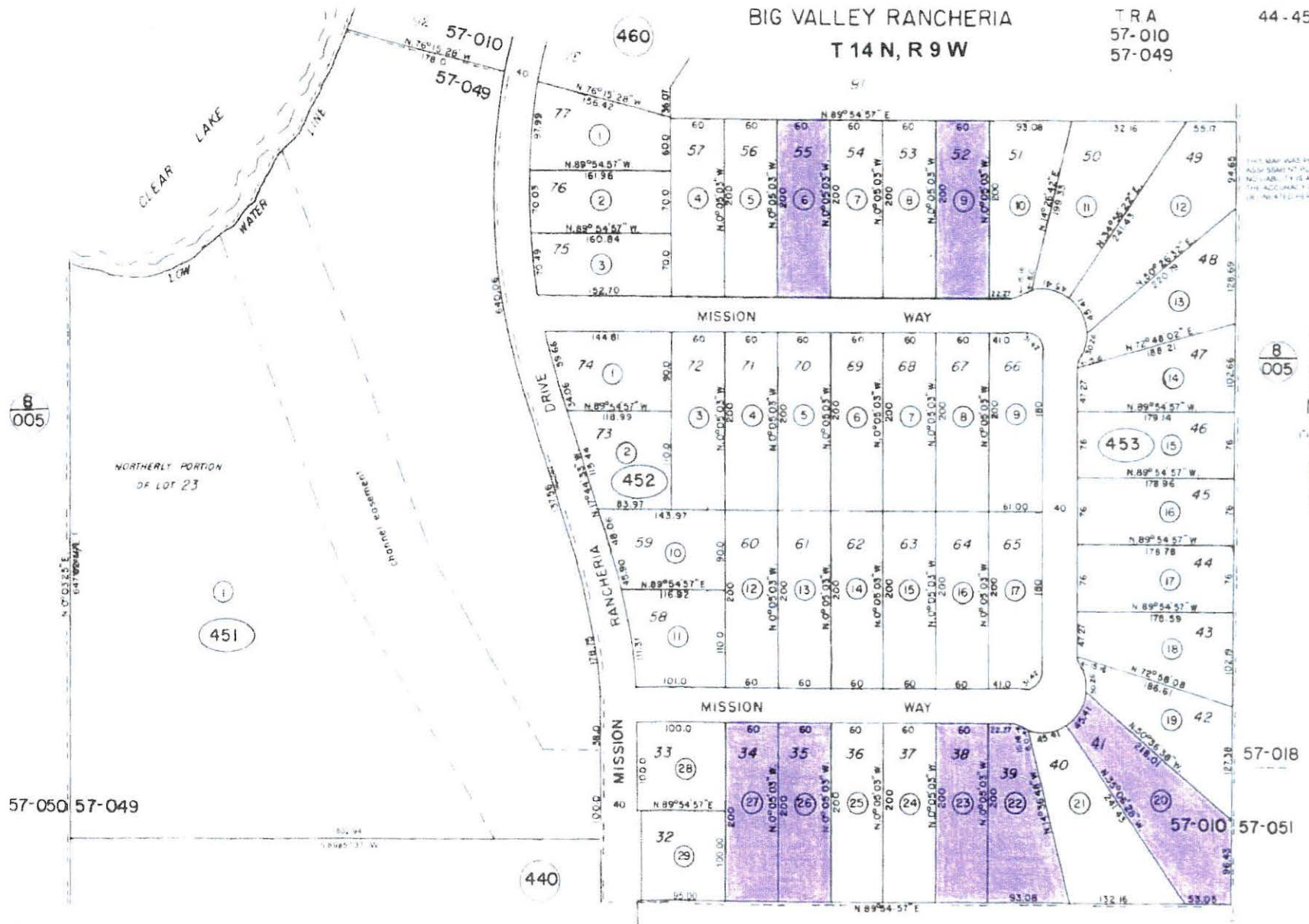
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BIG VALLEY RANCHERIA  
T 14 N, R 9 W

TRA  
57-010  
57-049

44-450



THIS MAP WAS PREPARED BY AN  
ADVISOR'S SURVEY FOR PURPOSES ONLY  
AND LIABILITY IS ASSUMED ONLY  
FOR THE ACCURACY OF THE DATA  
OR INFORMATION HEREON.



EXHIBIT "B"

## Bureau of Indian Affairs, Interior

## § 151.1

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

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

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

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

## PART 151—LAND ACQUISITIONS

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

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

**AUTHORITY:** R.S. 161; 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d-10, 1466, 1496, and other authorizing acts.

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

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

### § 151.1 Purpose and scope.

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

§ 151.2

25 CFR Ch. I (4-1-14 Edition)

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

§ 151.2 Definitions.

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

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

(c) *Individual Indian* means:

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

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

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

(4) For purposes of acquisitions outside of the State of Alaska, *Individual Indian* also means a person who meets the qualifications of paragraph (c)(1), (2), or (3) of this section where "Tribe" includes any Alaska Native Village or Alaska Native Group which is recognized by the Secretary as eligible for the special programs and services from the Bureau of Indian Affairs.

(d) *Trust land* or *land in trust status* means land the title to which is held in trust by the United States for an individual Indian or a tribe.

(e) *Restricted land* or *land in restricted status* means land the title to which is held by an individual Indian or a tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary because of limi-

tations contained in the conveyance instrument pursuant to Federal law or because of a Federal law directly imposing such limitations.

(f) Unless another definition is required by the act of Congress authorizing a particular trust acquisition, *Indian reservation* means that area of land over which the tribe is recognized by the United States as having governmental jurisdiction, except that, in the State of Oklahoma or where there has been a final judicial determination that a reservation has been disestablished or diminished, *Indian reservation* means that area of land constituting the former reservation of the tribe as defined by the Secretary.

(g) *Land* means real property or any interest therein.

(h) *Tribal consolidation area* means a specific area of land with respect to which the tribe has prepared, and the Secretary has approved, a plan for the acquisition of land in trust status for the tribe.

[46 FR 62036, Sept. 18, 1980, as amended at 60 FR 32879, June 28, 1995]

§ 151.3 Land acquisition policy.

Land not held in trust or restricted status may only be acquired for an individual Indian or a tribe in trust status when such acquisition is authorized by an act of Congress. No acquisition of land in trust status, including a transfer of land already held in trust or restricted status, shall be valid unless the acquisition is approved by the Secretary.

(a) Subject to the provisions contained in the acts of Congress which authorize land acquisitions, land may be acquired for a tribe in trust status:

(1) When the property is located within the exterior boundaries of the tribe's reservation or adjacent thereto, or within a tribal consolidation area; or

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

(3) When the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.

(b) Subject to the provisions contained in the acts of Congress which authorize land acquisitions or holding



## Bureau of Indian Affairs, Interior

## § 151.10

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

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

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

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

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

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

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

### § 151.6 Exchanges.

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

### § 151.7 Acquisition of fractional interests.

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

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

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

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

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

without offering to purchase all of such interests; or

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

### § 151.8 Tribal consent for nonmember acquisitions.

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

### § 151.9 Requests for approval of acquisitions.

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

### § 151.10 On-reservation acquisitions.

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

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

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

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

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

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

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

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

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

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

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

### § 151.11 Off-reservation acquisitions.

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

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

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

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

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

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

[60 FR 32879, June 23, 1995, as amended at 60 FR 46894, Sept. 21, 1995]

### § 151.12 Action on requests.

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

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

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

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

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

(i) Promptly provide the applicant with the decision;

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

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

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

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

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

(i) Promptly provide the applicant with the decision;

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

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

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

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

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

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

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

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

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

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

[78 FR 67937, Nov. 13, 2013]

**§ 151.13 Title examination.**

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

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

**§ 151.14 Formalization of acceptance.**

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

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

**§ 151.15 Information collection.**

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