



IN REPLY REFER TO

Fee to Trust

United States Department of the Interior

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

AUG 20 2019

Governor's Office of Planning & Research

AUG 22 2019

STATE CLEARINGHOUSE

NOTICE OF DECISION

CERTIFIED MAIL-RETURN RECEIPT REQUESTED – 7019 0140 0000 7335 6947

Honorable Scott Cozart
Chairman, Soboba Band of Luiseno Indians
P.O. Box 487
San Jacinto, CA 92581

Dear Chairman Cozart:

This is our Notice of Decision for the application of the Soboba Band of Luiseno Indians, California (Tribe) to have the below described property accepted by the United States of America in trust for the Soboba Band of Luiseno Indians, California.

THE FOLLOWING DESCRIBED PROPERTY IS SITUATED IN THE CITY OF SAN JACINTO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL 1 AS SHOWN ON EXHIBIT "B" MAP ATTACHED TO THAT LOT LINE ADJUSTMENT NO. 07-04, AS EVIDENCED BY DOCUMENT RECORDED JULY 12, 2007 AS INSTRUMENT NO. 2007-0454900 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF LOTS 1, 2, 3 AND 4 OF JOSE ESTUDILLO'S SUBDIVISION OF A PORTION OF TRACT VII OF RANCHO SAN JACINTO VIEJO, IN THE CITY OF SAN JACINTO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 6, PAGE 304 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT CORNER NO. 1 OF TRACT VII OF THE RANCHO SAN JACINTO VIEJO PER MAP ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY STATE OF CALIFORNIA, ALSO RECORDED IN RECORD OF SURVEY, BOOK 6, PAGE 34 AND PER TRACT MAP 2372 RECORDED IN BOOK 49, PAGES 25 AND 26, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF RIVERSIDE COUNTY, STATE OF CALIFORNIA, WHICH IS ALSO CORNER OF NO. 35 OF TRACT XXVI OF THE RANCHO SAN JACINTO VIEJO;

THENCE SOUTH 73° 54' 00" EAST, 1086.00 FEET ALONG THE NORTH BOUNDARY OF SAID RANCHO;

THENCE SOUTH 24° 06' 00" WEST, 676.00 FEET;

THENCE SOUTH 27° 23' 00" EAST, 167.86 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 2372 AND SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE SOUTH 27° 23' 00" EAST, 114.67 FEET;

THENCE SOUTH 43° 31' 00" WEST 130.75 FEET;

THENCE SOUTH 09° 41' 51" EAST, 259.05 FEET;

THENCE SOUTH 49° 27' 58" WEST, 265.86 FEET;

THENCE SOUTH 39° 19' 45" WEST, 494.49 FEET;

THENCE SOUTH 30° 14' 52" WEST, 124.73 FEET;

THENCE SOUTH 17° 17' 24" WEST, 105.63 FEET;

THENCE SOUTH 11° 38' 00" EAST, 172.24 FEET;

THENCE SOUTH 58° 51' 00" WEST, 203.25 FEET;

THENCE SOUTH 11° 59' 00" WEST, 195.00 FEET;

THENCE NORTH 61° 30' 00" WEST, 105.20 FEET;

THENCE SOUTH 81° 20' 00" WEST, 247.00 FEET TO THE EASTERLY LINE OF A 60 FOOT COUNTY ROAD KNOWN AS FOOTHILL ROAD OR MC DERMOTT ROAD;

THENCE NORTH 12° 13' 00" WEST, 387.00 FEET, MORE OR LESS, ALONG THE EASTERLY LINE OF SAID 60 FOOT ROAD TO THE INTERSECTION OF THE NORTHEASTERLY PROJECTION OF THE EASTERLY BOUNDARY OF AN 80 FOOT ROAD HAVING A BEARING OF NORTH 42° 01' 30" EAST;

THENCE NORTH 13° 45' 00" WEST, 433.0 FEET ALONG THE EASTERLY LINE OF SAID 60 FOOT ROAD;

THENCE NORTH 12° 53' 00" WEST, 565.00 FEET, MORE OR LESS, AS DESCRIBED IN GRANT DEED RECORDED AS INSTRUMENT NO. 02-606517, OCTOBER 25, 2002, RECORDS OF RIVERSIDE COUNTY;

THENCE NORTH 77° 28' 17" EAST, 1465.34 FEET, MORE OR LESS, AS DESCRIBED IN SAID INSTRUMENT NO. 606517, TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN SOBOBA ROAD.

ALSO EXCEPTING THEREFROM THAT PORTION LYING WITHIN PARCEL 1 OF THAT CERTAIN CERTIFICATE OF COMPLIANCE, LOT LINE ADJUSTMENT NO. COC 2-10 RECORDED DECEMBER 15, 2010 AS INSTRUMENT NO. 2010-0601354 OF OFFICIAL RECORDS.

PARCEL 2:

PARCEL 2 AS SHOWN ON EXHIBIT "B" MAP ATTACHED TO THAT LOT LINE ADJUSTMENT NO. 07-04, AS EVIDENCED BY DOCUMENT RECORDED JULY 12, 2007 AS INSTRUMENT NO. 2007-0454900 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF GOVERNMENT LOT 1 IN SECTION 30, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN JACINTO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA AND OF LOT 1 OF HOT SPRINGS TRACT RECORDED IN BOOK 8, PAGE 5 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, AND THAT PORTION OF LOTS 1, 2, 3, 4 AND 5 OF JOSE ESTUDILLO'S SUBDIVISION OF A PORTION OF TRACT VII OF RANCHO SAN JACINTO VIEJO, AS SHOWN BY MAP ON FILE IN BOOK 6, PAGE 304 OF MAPS, RECORDS OF SAN DIEGO COUNTY, CALIFORNIA, AND OF TRACT VII OF THE PORTION OF THE RANCHO SAN JACINTO VIEJO, AS SHOWN BY MAP ON FILE IN BASE NO. 277 OF THE DISTRICT COURT OF THE COUNTY OF SAN DIEGO, BOUNDED AND DESCRIBED AS FOLLOWS BY METES AND BOUNDS;

BEGINNING AT THE MOST WESTERLY CORNER OF THAT CERTAIN TRACT CONVEYED TO J. HORBACK BY DEED ON FILE IN BOOK 305, PAGE 369 OF DEEDS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE NORTH 47° 56' 00" EAST, 435.00 FEET;

THENCE NORTH 50° 42' 00" EAST, 543.00 FEET;

THENCE NORTH 84° 01' 00" EAST, 270.00 FEET;

THENCE NORTH 61° 26' 00" EAST, 178.00 FEET;

THENCE NORTH 42° 16' 00" EAST, 415.12 FEET, MORE OR LESS, TO THE EAST LINE OF SAID RANCHO SAN JACINTO VIEJO;

THENCE NORTH 00° 25' 00" WEST, 1524.73 FEET, MORE OR LESS, ON THE EAST LINE OF SAID RANCHO SAN JACINTO VIEJO, TO THE SOUTHWEST CORNER OF GOVERNMENT LOT 1 IN THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 4 SOUTH, RANGE 1 EAST, SAN BERNARDINO MERIDIAN;

THENCE NORTH 89° 22' 00" EAST, 893.78 FEET, MORE OR LESS, ON THE SOUTH LINE OF SAID GOVERNMENT LOT 1 TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 30;

THENCE NORTH 00° 30' 46" WEST, 1279.06 FEET, MORE OR LESS, ON THE EAST LINE OF GOVERNMENT LOT 1 TO THE NORTH LINE OF SECTION 30;

THENCE SOUTH 89° 22' 00" WEST, 1729.34 FEET, MORE OR LESS, ON THE NORTH LINE OF SECTION 30 TO THE NORTHEAST LINE OF RANCHO SAN JACINTO VIEJO, SAID LINE ALSO BEING THE NORTHEAST LINE OF SAID HOT SPRINGS TRACT;

THENCE NORTH 73° 54' 00" WEST, 658.27 FEET, MORE OR LESS, ALONG SAID RANCHO LINE TO CORNER NO. 35 OF TRACT XXVI OF RANCHO SAN JACINTO VIEJO;

THENCE NORTH 73° 49' 00" WEST, 270.26 FEET, MORE OR LESS, ALONG THE NORTH LINE OF RANCHO SAN JACINTO VIEJO TO THE SOUTH LINE OF THE PROPERTY CONVEYED TO FRANCES P. NEVINS ET UX BY DEED RECORDED JUNE 14, 1968 AS INSTRUMENT NO. 55671 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE NORTH 90° 00' 00" WEST, 142.27 FEET, MORE OR LESS, ALONG THE SOUTH OF SAID PROPERTY CONVEYED TO FRANCIS P. NEVINS TO THE CORNER COMMON TO SECTIONS 24 AND 25 OF TOWNSHIP 4 SOUTH, RANGE 1 WEST, SAN BERNARDINO MERIDIAN;

THENCE SOUTH 00° 07' 42" WEST, 474.45 FEET, MORE OR LESS, ON THE EAST LINE OF SECTION 25, TOWNSHIP 4 SOUTH, RANGE 1 WEST, TO THE NORTH LINE OF LOT 6 OF TRACT 2372, AS SHOWN BY MAP ON FILE IN BOOK 49 PAGES 25 AND 26 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE NORTH 80° 03' 33" EAST, 137.72 FEET, MORE OR LESS, ON THE NORTH LINE OF LOT 6 TO AN ANGLE POINT ON SAID NORTH LINE OF SAID LOT 6;

THENCE NORTH 72° 45' 45" EAST, 390.36 FEET ON THE NORTH LINES OF LOTS 6, 7 AND 8 OF SAID TRACT TO THE NORTHEAST CORNER OF LOT 8 OF SAID TRACT;

THENCE NORTH 90° 00' 00" EAST, 220.00 FEET ON THE NORTH LINE OF LOT 9 TO THE NORTHEAST CORNER OF LOT 9 IN SAID TRACT;

THENCE SOUTH 51° 48' 00" EAST, 410.00 FEET ALONG THE NORTHEAST LINES OF LOTS 10, 11 AND 12 OF TRACT 2372 TO THE MOST WESTERLY CORNER OF LOT 13;

THENCE NORTH 51° 45' 00" EAST, 108.00 FEET ON THE NORTHWESTERLY LINE OF LOT 13 TO THE NORTH CORNER OF LOT 13 OF TRACT 2372;

THENCE SOUTH 28° 25' 49" EAST, 211.23 FEET ALONG THE EAST LINE OF LOT 13 OF TRACT 2372 TO THE MOST EASTERLY CORNER OF LOT 13;

THENCE SOUTH 35° 56' 20" EAST, 60.00 FEET TO THE NORTH CORNER OF LOT 14 OF TRACT 2372;

THENCE SOUTH 28° 36' 37" EAST, 178.20 FEET ALONG THE EAST LINE OF LOT 14 TO THE NORTHEAST CORNER OF LOT 15 OF TRACT 2372;

THENCE SOUTH 56° 38' 18" EAST, 89.00 FEET ALONG THE NORTHERLY LINE OF PROPERTY CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT BY GRANT DEED RECORDED JULY 06, 1999 AS INSTRUMENT NO. 1999-299290 OFFICIAL RECORDS OF RIVERSIDE COUNTY;

THENCE SOUTH 74° 42' 03" EAST, 59.22 FEET ALONG THE NORTHERLY LINE OF SAID PROPERTY CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT;

THENCE SOUTH 09° 26' 16" EAST, 126.59 FEET ALONG THE EASTERLY LINE OF SAID PROPERTY CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT;

THENCE SOUTH 58° 59' 48" WEST, 104.25 FEET ALONG THE SOUTHEASTERLY LINE OF SAID PROPERTY CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT;

THENCE NORTH 78° 00' 17" WEST, 122.11 FEET ALONG THE SOUTHERLY LINE OF SAID PROPERTY CONVEYED TO EASTERN MUNICIPAL WATER DISTRICT TO THE SOUTHEASTERLY CORNER OF SAID LOT 15 OF SAID TRACT 2372;

THENCE SOUTH 76° 42' 00" WEST, 54.02 FEET ALONG THE SOUTH LINE OF LOT 15 TO THE SOUTHWEST CORNER OF SAID LOT ALSO BEING A POINT ON THE NORTHEAST LINE OF THE PROPERTY OF JOHN ALTHOUSE, AS SHOWN ON RECORD OF SURVEY RECORDED IN BOOK 6, PAGE 34 OF RECORDS OF SURVEY, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

THENCE SOUTH 27° 23' 00" EAST, 114.67 FEET;

THENCE SOUTH 43° 31' 00" WEST, 130.75 FEET;

THENCE SOUTH 09° 41' 51" EAST, 259.05 FEET;

THENCE SOUTH 49° 27' 58" WEST, 265.86 FEET;

THENCE SOUTH 39° 19' 45" WEST, 494.49 FEET;

THENCE SOUTH 30° 14' 52" WEST, 124.73 FEET;

THENCE SOUTH 17° 17' 24" WEST, 105.63 FEET;

THENCE SOUTH 11° 38' 00" EAST, 172.24 FEET;

THENCE SOUTH 58° 51' 00" WEST, 203.25 FEET;

THENCE SOUTH 11° 59' 00" WEST, 195.00 FEET;

THENCE NORTH 61° 30' 00" WEST, 105.20 FEET;

THENCE SOUTH 81° 20' 00" WEST, 277.06 FEET, MORE OR LESS, TO THE CENTER LINE OF A 60 FOOT COUNTY ROAD AS SHOWN ON RECORD OF SURVEY 52/81;

THENCE SOUTH 12° 13' 00" EAST, 978.22 FEET, MORE OR LESS, ALONG THE CENTERLINE OF SAID 60 FOOT COUNTY ROAD TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY AND HAVING EASTERLY AND HAVING A RADIUS OF 1000.00 FEET;

THENCE SOUTHEASTERLY ALONG SAID CURVE ALSO BEING THE CENTERLINE OF SAID 60 FOOT COUNTY ROAD THROUGH A CENTRAL ANGLE OF 19° 25' 33" AN ARC LENGTH OF 339.05 FEET, MORE OR LESS;

THENCE SOUTH 31° 38' 33" EAST, 28.75 FEET, MORE OR LESS, ALONG THE CENTERLINE OF SAID 60 FOOT COUNTY ROAD TO THE TRUE POINT OF BEGINNING;

EXCEPTING THEREFROM ALL THAT PORTION INCLUDED IN SAID COUNTY ROAD, AS SHOWN AS PARCEL 8 ON RECORD OF SURVEY ON FILE IN BOOK 52 PAGE 81 OF RECORDS OF SURVEY, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

ALSO EXCEPTING THEREFROM ½ INTEREST AND TO THE PRECIOUS AND SEMI-PRECIOUS STONES, MINERALS AND MINERAL RIGHTS INCLUDING, OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, AND THE RIGHT TO REMOVE ANY THEREOF, AS RESERVED IN DEED TO SOBOBA HOT SPRINGS CORPORATION, RECORDED JULY 17, 1961 AS INSTRUMENT NO. 60529 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

SAID EXCEPTION SHALL BE RESTRICTED TO DEPTHS BELOW 500 FEET FROM THE SURFACE OF SAID LAND, EXCEPT FOR THE PORTION OF GOVERNMENT LOT 1 LYING EAST OF A LINE DRAWN FROM THE SOUTHWEST CORNER OF LOT 1 THROUGH S.J. CORNER 36 TO THE NORTH LINE OF SECTION 30 WHERE SAID RESERVATION SHALL INCLUDE THE RIGHT OF INGRESS AND EGRESS TO PROSPECT, EXPLORE, MINE, DRILL, REMOVE ANY OF SAID MINERALS OR SUBSTANCES OR TO OTHERWISE DEVELOP SAID RIGHTS;

ALSO EXCEPTING THEREFROM THOSE PORTIONS AS DESCRIBED IN THE DEEDS TO EASTERN MUNICIPAL WATER DISTRICT RECORDED DECEMBER 14, 1967 AS INSTRUMENT NO. 110306 AND RECORDED FEBRUARY 05, 1971 AS INSTRUMENT NO. 11843 AND RECORDED JUNE 10, 1971 AS INSTRUMENT NO. 62375 ALL OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA;

The subject property consists of the above described parcels of land totaling approximately 145.00 acres, more or less, commonly referred to as the Olive-Ciernia property and Assessor's Parcel Numbers: 433-090-004-7, 547-100-011-5, 547-110-045-7, 547-110-048-0, 547-120-006-3, 547-120-007-4, 547-120-011-7, and 547-120-012-8. The subject property is contiguous to the Soboba Reservation.

Note: The total acreage is consistent with the Bureau of Land Management Indian Land Surveyor's Land Description Review dated July 23, 2018.

Federal Law authorizes the Secretary of the Interior, or his authorized representative, to acquire title on behalf of the United States of America for the benefit of tribes when such acquisition is authorized by an Act of Congress and (1) when such lands are within the exterior boundaries of the tribe's reservation, or adjacent thereto, or when such lands are within the consolidation area; or (2) when the tribe already owns an interest in the land; or (3) when the Secretary determines that the land is necessary to facilitate tribal self-determination, economic development, or tribal housing. In this particular instance, the authorizing Act of Congress is the Indian Land Consolidation Act of 1983 (25 U.S.C. § 2202). The applicable regulations are set forth in the Code of Federal Regulations (CFR), Title 25, INDIANS, Part 151, as amended.

The Soboba Reservation was established by the Executive Order of June 19, 1883. The Reservation was patented to the Soboba or San Jacinto Viejo Indians on August 22, 1911, by the Secretary of Interior.

Pursuant to 25 U.S.C. § 5125 (previously § 478), the Secretary held such an election for the Tribe on December 15, 1934, at which the majority of the Tribe's voters voted to reject the provisions of the Indian Reorganization Act of June 18, 1934¹. The Secretary's act of calling and holding this election for the Tribe informs us that the Tribe was deemed to be "under Federal jurisdiction" in 1934. The Haas List tribes are considered to be under federal jurisdiction in 1934².

On February 11, 2019, by certified mail, return receipt requested, we issued notice of and sought comments regarding the proposed fee-to-trust application from the California State Clearinghouse, Office of Planning and Research; Senior Advisor for Tribal Negotiations, Office of the Governor; Sara Drake, Deputy Attorney General, State of California; Office of the Honorable Senator Diane Feinstein; U.S. House of Representatives, 36th District; Riverside County Assessor; Riverside County Treasurer and Tax Collector; Riverside County, Board of Supervisors; Riverside County Sheriff's Department; Riverside County – Office of County Counsel; Riverside County Planning Department; City of San Jacinto; Agua Caliente Band of Cahuilla Indians; Augustine Band of Mission Indians; Cabazon Band of Mission Indians; Cahuilla Band of Mission Indians; Morongo Band of Mission Indians; Pechanga Band of Luiseno Indians; Ramona Band of Mission Indians; Santa Rosa Band of Cahuilla Indians; Soboba Band of Luiseno Indians; Torres-Martinez Desert Cahuilla Indians; Twenty-Nine Palms Band of Mission Indians. Regular Mail: Superintendent, Southern California Agency.

In response to our notification, we received the following comments:

- 1. Letter dated March 6, 2019 from the State of California Native American Heritage Commission, which stated that they had no comments.**
- 2. Letter dated October 5, 2018 from the County of Riverside Executive Office, which provided property tax and zoning information.**

Pursuant to 25 CFR 151.10, the following factors were considered in formulating our decision: (1) the need of the tribe for additional land; (2) the purposes for which the land will be used; (3) impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls; (4) jurisdictional problems and potential conflicts of land use which may arise; (5) whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of land in trust status; (6) 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. Accordingly, the following analysis of the application is provided.

¹ See "Ten Years of Tribal Government Under I.R.A", United States Services, 1947, at Interior's website at <http://www.doi.gov/library/internet/subject/upload/Haas-TenYears.pdf>.

² See *Shawano County, Wisconsin v. Acting Midwest Regional Director, BIA*, 53 IBIA 62 (February 28, 2011) and *Stand Up for California, etal, v. U.S. Department of Interior v. North Fork Rancheria of Mono Indians*, 919 F. Supp. 2d 51 (January 29, 2013), the District Court for District of Columbia.

Factor 1 - Need for Additional Land

This acquisition of the Olive-Ciernia property in trust for the Tribe is part of the Tribe's plan to have continuous reservation boundaries in order to exercise sovereign authority over its aboriginal territory. The Tribe wants to ensure that the natural and cultural resources are subject to the Tribe's management, protection, and conservation. The trust acquisition of the Olive-Ciernia property will protect the Tribe's homeland from future alienation.

It is our determination that the Tribe has established a need for additional lands to protect the environment and preserve the reservation.

Factor 2 - Proposed Land Use

The subject property will continue to be used as vacant, open space. The Tribe has no plans for development of the property.

Factor 3 – Impact on State and Local Government's Tax Base

Parcels accepted into federal trust status are exempt from taxation and would be removed from the Riverside County's taxing jurisdiction. In the 2018-2019 tax years, the total tax assessed on the subject property was \$38,406.24. During the comment period, none of the solicited agencies indicated that any adverse impacts would result from the removal of the subject parcel from the tax rolls.

Transferring the subject property into trust will not have a significant impact on the State of California or Riverside County's tax revenue because the amount of property taxes assessed on these parcels is small in comparison to the County's annual property tax revenue.

It is our determination that no significant impact will result from the removal of this property from the county tax rolls given the relatively small amount of tax revenue assessed on the subject parcel.

Factor 4 - Jurisdictional Problems and Potential Conflicts of Land Use Which May Arise

The Tribe does not anticipate that any significant jurisdictional conflicts will occur as a result of transfer of the Olive-Ciernia property into trust. Currently, the property is vacant, open space. The Tribe has no plans to change the use of the property; therefore it is unlikely that any jurisdictional conflicts will arise.

The land presently is subject to the full civil/regulatory and criminal/prohibitory jurisdiction of the State of California and Riverside County. Once the land is accepted into trust, the State of California will have the same territorial and adjudicatory jurisdiction over the land, persons and transactions on the land as the State has over other Indian counties within the State. Under 18 U.S.C. § 1162 and 28 U.S.C. § 1360 (P.L. 83-280), except as otherwise expressly provided in those statutes, the State of California would retain jurisdiction to enforce its criminal/prohibitory law against all persons and conduct occurring on the land.

Transfer of the Olive-Ciernia property into trust will not have an effect on Riverside County's regulatory jurisdiction or zoning over the subject property as the property is subject to tribal, not County regulatory jurisdiction and zoning regulations.

Factor 5 - Whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status

Acceptance of the Olive-Ciernia property into Federal trust status should not impose any additional responsibilities or burdens on the BIA beyond those already inherent in the Federal trusteeship over the existing Soboba Reservation. The Tribe will continue to manage the land under its current use and assume responsibility for all associated costs. This acquisition anticipates no change in land use on the Olive-Ciernia property; and therefore, any additional responsibilities resulting from this transaction will be minimal.

Factor 6 – The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 1-7, National Environmental Policy Act Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determination

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility of conducting a site assessment for the purposes of determining the potential of, and extent of liability from hazardous substances or other environmental remediation or injury. The record includes a negative Phase 1 "Contaminant Survey Checklist" dated October 20, 2017, reflecting that there were no hazardous materials or contaminants.

National Environmental Policy Act Compliance

An additional requirement that has to be met when considering land acquisition proposals is the impact upon the human environment pursuant to the criteria of the National Environmental Policy Act of 1969 (NEPA). The BIA's guidelines for NEPA compliance are set forth in the Bureau of Indian Affairs Manual (59 IAM). The proposed action herein has been determined not to require the preparation of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A Categorical Exclusion requires a qualifying action in this case, 516 DM 10.5I, Land Conveyance and Other Transfers, where no immediate change in land use is planned. A Categorical Exclusion for the acquisition for the subject property was approved by this Agency on August 13, 2019. Compliance with NEPA has been completed.

Conclusion

Based on the foregoing, we at this time issue notice of our intent to accept the subject real property into trust. The subject acquisition will vest title in the United States of America in trust for the Soboba Band of Luiseno Indians, California in accordance with the Indian Land Consolidation Act of January 12, 1983, (25 U.S.C. §2202).

Should any of the below-listed known interested parties feel adversely affected by this decision, an appeal may be filed within thirty (30) days of receipt of this notice with the Interior Board of

Indian Appeals, U.S. Department of the Interior, 801 N. Quincy St., Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed).

Any notice of appeal to the Board must be signed by the appellant or the appellant's legal counsel, and the notice of the appeal must be mailed within thirty (30) days of the date of receipt of this notice. The notice of appeal should clearly identify the decision being appealed.

If possible, a copy of this decision should be attached. Any appellant must send copies of the notice of appeal to: (1) the Assistant Secretary of Indian Affairs, U.S. Department of Interior 1849 C Street, N.W., MS-3071-MIB, Washington, D.C. 20240; (2) each interested party known to the appellant; and (3) this office. Any notice of appeal sent to the Board of Indian Appeals must certify that copies have been sent to interested parties. If a notice of appeal is filed, the Board of Indian Appeals will notify appellant of further appeal procedures. If no appeal is timely filed, further notice of a final agency action will be issued by the undersigned pursuant to 25 CFR 151.12(b). No extension of time may be granted for filing a notice of appeal.

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.

Sincerely,



Acting Regional Director

Enclosure:
43 CFR 4.310, et seq.

cc: Distribution List

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State of California
Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Senior Advisor for Tribal Negotiations – 7019 0140 0000 7335 6794
Deputy Legal Affairs Secretary
Office of the Governor
California State Capitol Building, Ste. 1173
Sacramento, CA 95814

Office of the Honorable Dianne Feinstein – 7019 0140 0000 7335 6800
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Washington, DC 20510

U.S. House of Representatives – 7019 0140 0000 7335 6817
36th District
445 East Florida Ave – 2nd Floor
Hemet, CA 92543

Riverside County Board of Supervisors – 7019 0140 0000 7335 6824
County Administrative Center
4080 Lemon Street, 14th Floor
Riverside, CA 92501

County of Riverside – 7019 0140 0000 7335 6831
Office of the Assessor
4080 Lemon Street, 1st Floor
Riverside, CA 92501

County of Riverside – 7019 0140 0000 7335 6848
Planning Department
4080 Lemon Street 12th Floor
Riverside, CA 92501

Riverside County Treasurer & Tax Collector – 7019 0140 0000 7335 6855
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Riverside County Sheriff's Department – 7019 0140 0000 7335 6862
4095 Lemon Street
Riverside, CA 92501

Riverside County -Office of County Counsel – 7019 0140 0000 7335 6879
Attn: Ronak N. Patel
3960 Orange Street, Suite 500
Riverside, CA 92501

City of San Jacinto – 7019 0140 0000 7335 6886
595 S. San Jacinto Ave.
San Jacinto, CA 92583

Chairperson – 7019 0140 0000 7335 6893
Agua Caliente Band of Cahuilla Indians
5401 Dinah Shore Drive
Palm Springs, CA 92264

Chairperson – 7019 0140 0000 7335 6909
Augustine Band of Mission Indians
P.O. Box 846
Coachella, CA 92236

Chairperson – 7019 0140 0000 7335 6916
Cabazon Band of Mission Indians
84-245 Indio Springs Drive
Indio, CA 92201

Chairperson – 7019 0140 0000 7335 6923
Cahuilla Band of Mission Indians
52701 Highway 371
Anza, CA 92539-1760

Chairperson – 7019 0140 0000 7335 6930
Morongo Band of Mission Indians
12700 Pumarra Road
Banning, CA 92220

Chairperson – 7019 0140 0000 7335 6947
Pechanga Band of Luiseno Indians
12705 Pechanga Rd.
Temecula, CA 92592

Chairperson – 7019 0140 0000 7335 6954
Ramona Band of Mission Indians
P.O. Box 391670
Anza, CA 92539

Chairperson – 7019 0140 0000 7335 6961
Santa Rosa Band of Cahuilla Indians
P.O. Box 391820
Anza, CA 92539

Chairperson – 7019 0140 0000 7335 6978
Torres-Martinez Desert Cahuilla Indians
P.O. Box 1160
Thermal, CA 92274

Chairperson – 7019 0140 0000 7335 6985
Twenty-Nine Palms
46-200 Harrison Place
Coachella, CA 92236

Regular Mail:

Superintendent
Southern California Agency
Bureau of Indian Affairs
1451 Research Park Drive, Suite 100
Riverside, CA 92507-2154



Office of the Secretary, Interior

§ 4.310

state specifically and concisely the grounds upon which it is based.

(b) *Notice; burden of proof.* The OHA deciding official will, upon receipt of a demand for hearing, set a time and place therefor and must mail notice thereof to all parties in interest not less than 30 days in advance; provided, however, that such date must be set after the expiration of the 60-day period fixed for the filing of the demand for hearing as provided in § 4.305(a). At the hearing, each party challenging the tribe's claim to purchase the interests in question or the valuation of the interests as set forth in the valuation report will have the burden of proving his or her position.

(c) *Decision after hearing; appeal.* Upon conclusion of the hearing, the OHA deciding official will issue a decision which determines all of the issues including, but not limited to, a judgment establishing the fair market value of the interests purchased by the tribe, including any adjustment thereof made necessary by the surviving spouse's decision to reserve a life estate in one-half of the interests. The decision must specify the right of appeal to the Board of Indian Appeals within 60 days from the date of the decision in accordance with §§ 4.310 through 4.323. The OHA deciding official must lodge the complete record relating to the demand for hearing with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

§ 4.306 Time for payment.

A tribe must pay the full fair market value of the interests purchased, as set forth in the valuation report or as determined after hearing in accordance with § 4.305, whichever is applicable, within 2 years from the date of decedent's death or within 1 year from the date of notice of purchase, whichever comes later.

§ 4.307 Title.

Upon payment by the tribe of the interests purchased, the Superintendent must issue a certificate to the OHA deciding official that this has been done and file therewith such documents in

support thereof as the OHA deciding official may require. The OHA deciding official will then issue an order that the United States holds title to such interests in trust for the tribe, lodge the complete record, including the decision, with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

§ 4.308 Disposition of income.

During the pendency of the probate and up to the date of transfer of title to the United States in trust for the tribe in accordance with § 4.307, all income received or accrued from the land interests purchased by the tribe will be credited to the estate.

CROSS REFERENCE: See 25 CFR part 2 for procedures for appeals to Area Directors and to the Commissioner of the Bureau of Indian Affairs.

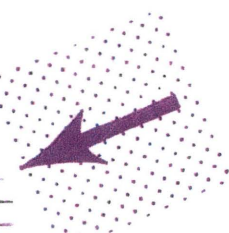
GENERAL RULES APPLICABLE TO PROCEEDINGS ON APPEAL BEFORE THE INTERIOR BOARD OF INDIAN APPEALS

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

§ 4.310 Documents.

(a) *Filing.* The effective date for filing a notice of appeal or other document with the Board during the course of an appeal is the date of mailing or the date of personal delivery, except that a motion for the Board to assume jurisdiction over an appeal under 25 CFR 2.20(e) will be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings must be served on all parties in interest in any proceeding before the Interior Board of Indian Appeals by the party filing the notice or pleading with the Board. Service must be accomplished upon personal delivery or mailing. Where a party is represented in an appeal by an attorney or other representative authorized under 43 CFR 1.3, service of any document on the attorney or representative is service on the party. Where a party is represented by more than one attorney, service on any one attorney is sufficient. The certificate of service on an attorney or



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representative must include the name of the party whom the attorney or representative represents and indicate that service was made on the attorney or representative.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed or answered was served or the day of any other event after which a designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days are excluded in the computation.

(d) *Extensions of time.* (1) The time for filing or serving any document except a notice of appeal may be extended by the Board.

(2) A request to the Board for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the Board may grant an extension of time on its own initiative.

(e) *Retention of documents.* All documents received in evidence at a hearing or submitted for the record in any proceeding before the Board will be retained with the official record of the proceeding. The Board, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Board.

§4.311 Briefs on appeal.

(a) The appellant may file an opening brief within 30 days after receipt of the notice of docketing. Appellant must serve copies of the opening brief upon all interested parties or counsel and file a certificate with the Board showing service upon the named parties. Opposing parties or counsel will have 30 days from receipt of appellant's brief

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to file answer briefs, copies of which must be served upon the appellant or counsel and all other parties in interest. A certificate showing service of the answer brief upon all parties or counsel must be attached to the answer filed with the Board.

(b) Appellant may reply to an answering brief within 15 days from its receipt. A certificate showing service of the reply brief upon all parties or counsel must be attached to the reply filed with the Board. Except by special permission of the Board, no other briefs will be allowed on appeal.

(c) The BIA is considered an interested party in any proceeding before the Board. The Board may request that the BIA submit a brief in any case before the Board.

(d) An original only of each document should be filed with the Board. Documents should not be bound along the side.

(e) The Board may also specify a date on or before which a brief is due. Unless expedited briefing has been granted, such date may not be less than the appropriate period of time established in this section.

§4.312 Decisions.

Decisions of the Board will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion, or order of a BIA official or an OHA deciding official. Distribution of decisions must be made by the Board to all parties concerned. Unless otherwise stated in the decision, rulings by the Board are final for the Department and must be given immediate effect.

§4.313 Amicus Curiae; intervention; joinder motions.

(a) Any interested person or Indian tribe desiring to intervene or to join other parties or to appear as amicus curiae or to obtain an order in an appeal before the Board must apply in writing to the Board stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to limitations established by the Board. This section will be liberally construed.

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(b) Motions to intervene, to appear as *amicus curiae*, to join additional parties, or to obtain an order in an appeal pending before the Board must be served in the same manner as appeal briefs.

§ 4.314 Exhaustion of administrative remedies.

(a) No decision of an OHA deciding official or a BIA official, which at the time of its rendition is subject to appeal to the Board, will be considered final so as to constitute agency action subject to judicial review under 5 U.S.C. 704, unless made effective pending decision on appeal by order of the Board.

(b) No further appeal will lie within the Department from a decision of the Board.

(c) The filing of a petition for reconsideration is not required to exhaust administrative remedies.

§ 4.315 Reconsideration.

(a) Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Board within 30 days from the date of the decision and must contain a detailed statement of the reasons why reconsideration should be granted.

(b) A party may file only one petition for reconsideration.

(c) The filing of a petition will not stay the effect of any decision or order and will not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Board.

§ 4.316 Remands from courts.

Whenever any matter is remanded from any federal court to the Board for further proceedings, the Board will either remand the matter to an OHA deciding official or to the BIA, or to the extent the court's directive and time limitations will permit, the parties will be allowed an opportunity to submit to the Board a report recommending procedures for it to follow to comply with the court's order. The Board will enter special orders governing matters on remand.

§ 4.317 Standards of conduct.

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board must be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of Hearings and Appeals will determine the matter of disqualification.

§ 4.318 Scope of review.

An appeal will be limited to those issues which were before the OHA deciding official upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the BIA official on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board will not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

**APPEALS TO THE BOARD OF INDIAN
APPEALS IN PROBATE MATTERS**

SOURCE: 66 FR 67656, Dec. 31, 2001, unless otherwise noted.

§ 4.320 Who may appeal.

(a) A party in interest has a right to appeal to the Board from an order of an OHA deciding official on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(b) Notice of appeal. Within 60 days from the date of the decision, an appellant must file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. A

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statement of the errors of fact and law upon which the appeal is based must be included in either the notice of appeal or in any brief filed. The notice of appeal must include the names and addresses of parties served. A notice of appeal not timely filed will be dismissed for lack of jurisdiction.

(c) Service of copies of notice of appeal. The appellant must personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy must be served upon the OHA deciding official whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board must include a certification that service was made as required by this section.

(d) Action by the OHA deciding official; record inspection. The OHA deciding official, upon receiving a copy of the notice of appeal, must notify the Superintendent concerned to return the duplicate record filed under §§4.236(b) and 4.241(d), or under §4.242(f) of this part, to the Land Titles and Records Office designated under §4.236(b) of this part. The duplicate record must be conformed to the original by the Land Titles and Records Office and will thereafter be available for inspection either at the Land Titles and Records Office or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the OHA deciding official will have a transcript prepared which must be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

[66 FR 67656, Dec. 31, 2001, as amended at 67 FR 4388, Jan. 30, 2002]

§4.321 Notice of transmittal of record on appeal.

The original record on appeal must be forwarded by the Land Titles and Records Office to the Board by certified mail. Any objection to the record as constituted must be filed with the Board within 15 days of receipt of the notice of docketing issued under §4.332 of this part.

§4.322 Docketing.

The appeal will be docketed by the Board upon receipt of the administrative record from the Land Titles and

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Records Office. All interested parties as shown by the record on appeal must be notified of the docketing. The docketing notice must specify the time within which briefs may be filed and must cite the procedural regulations governing the appeal.

§4.323 Disposition of the record.

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcripts prepared because of the appeal and the Board's decision, must be forwarded by the Board to the Land Titles and Records Office designated under §4.236(b) of this part. Upon receipt of the record by the Land Titles and Records Office, the duplicate record required by §4.320(c) of this part must be conformed to the original and forwarded to the Superintendent concerned.

APPEALS TO THE BOARD OF INDIAN APPEALS FROM ADMINISTRATIVE ACTIONS OF OFFICIALS OF THE BUREAU OF INDIAN AFFAIRS: ADMINISTRATIVE REVIEW IN OTHER INDIAN MATTERS NOT RELATING TO PROBATE PROCEEDINGS

SOURCE: 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

§4.330 Scope.

(a) The definitions set forth in 25 CFR 2.2 apply also to these special rules. These regulations apply to the practice and procedure for: (1) Appeals to the Board of Indian Appeals from administrative actions or decisions of officials of the Bureau of Indian Affairs issued under regulations in 25 CFR chapter 1, and (2) administrative review by the Board of Indian Appeals of other matters pertaining to Indians which are referred to it for exercise of review authority of the Secretary or the Assistant Secretary—Indian Affairs.

(b) Except as otherwise permitted by the Secretary or the Assistant Secretary—Indian Affairs by special delegation or request, the Board shall not adjudicate:

- (1) Tribal enrollment disputes;

(2) Matters decided by the Bureau of Indian Affairs through exercise of its discretionary authority; or

(3) Appeals from decisions pertaining to final recommendations or actions by officials of the Minerals Management Service, unless the decision is based on an interpretation of Federal Indian law (decisions not so based which arise from determinations of the Minerals Management Service, are appealable to the Interior Board of Land Appeals in accordance with 43 CFR 4.410).

§4.331 Who may appeal.

Any interested party affected by a final administrative action or decision of an official of the Bureau of Indian Affairs issued under regulations in title 25 of the Code of Federal Regulations may appeal to the Board of Indian Appeals, except—

(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official;

(b) Where the decision has been approved in writing by the Secretary or Assistant Secretary—Indian Affairs prior to promulgation; or

(c) Where otherwise provided by law or regulation.

§4.332 Appeal to the Board; how taken; mandatory time for filing; preparation assistance; requirement for bond.

(a) A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative as provided by 43 CFR 1.3, and filed with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203, within 30 days after receipt by the appellant of the decision from which the appeal is taken. A copy of the notice of appeal shall simultaneously be filed with the Assistant Secretary—Indian Affairs. As required by §4.333 of this part, the notice of appeal sent to the Board shall certify that a copy has been sent to the Assistant Secretary—Indian Affairs. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction. A notice of appeal shall include:

(1) A full identification of the case;

(2) A statement of the reasons for the appeal and of the relief sought; and

(3) The names and addresses of all additional interested parties, Indian tribes, tribal corporations, or groups having rights or privileges which may be affected by a change in the decision, whether or not they participated as interested parties in the earlier proceedings.

(b) In accordance with 25 CFR 2.20(c) a notice of appeal shall not be effective for 20 days from receipt by the Board, during which time the Assistant Secretary—Indian Affairs may decide to review the appeal. If the Assistant Secretary—Indian Affairs properly notifies the Board that he has decided to review the appeal, any documents concerning the case filed with the Board shall be transmitted to the Assistant Secretary—Indian Affairs.

(c) When the appellant is an Indian or Indian tribe not represented by counsel, the official who issued the decision appealed shall, upon request of the appellant, render such assistance as is appropriate in the preparation of the appeal.

(d) At any time during the pendency of an appeal, an appropriate bond may be required to protect the interest of any Indian, Indian tribe, or other parties involved.

[54 FR 6487, Feb. 10, 1989, as amended at 67 FR 4368, Jan. 30, 2002]

§4.333 Service of notice of appeal.

(a) On or before the date of filing of the notice of appeal the appellant shall serve a copy of the notice upon each known interested party, upon the official of the Bureau of Indian Affairs from whose decision the appeal is taken, and upon the Assistant Secretary—Indian Affairs. The notice of appeal filed with the Board shall certify that service was made as required by this section and shall show the names and addresses of all parties served. If the appellant is an Indian or an Indian tribe not represented by counsel, the appellant may request the official of the Bureau whose decision is appealed to assist in service of copies of the notice of appeal and any supporting documents.

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(b) The notice of appeal will be considered to have been served upon the date of personal service or mailing.

§ 4.334 Extensions of time.

Requests for extensions of time to file documents may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal which, as specified in § 4.332 of this part, may not be extended.

§ 4.335 Preparation and transmittal of record by official of the Bureau of Indian Affairs.

(a) Within 20 days after receipt of a notice of appeal, or upon notice from the Board, the official of the Bureau of Indian Affairs whose decision is appealed shall assemble and transmit the record to the Board. The record on appeal shall include, without limitation, copies of transcripts of testimony taken; all original documents, petitions, or applications by which the proceeding was initiated; all supplemental documents which set forth claims of interested parties; and all documents upon which all previous decisions were based.

(b) The administrative record shall include a Table of Contents noting, at a minimum, inclusion of the following:

- (1) The decision appealed from;
- (2) The notice of appeal or copy thereof; and
- (3) Certification that the record contains all information and documents utilized by the deciding official in rendering the decision appealed.

(c) If the deciding official receives notification that the Assistant Secretary—Indian Affairs has decided to review the appeal before the administrative record is transmitted to the Board, the administrative record shall be forwarded to the Assistant Secretary—Indian Affairs rather than to the Board.

§ 4.336 Docketing.

An appeal shall be assigned a docket number by the Board 20 days after receipt of the notice of appeal unless the Board has been properly notified that the Assistant Secretary—Indian Affairs has assumed jurisdiction over the appeal. A notice of docketing shall be sent to all interested parties as shown

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by the record on appeal upon receipt of the administrative record. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing. The docketing notice shall specify the time within which briefs shall be filed, cite the procedural regulations governing the appeal and include a copy of the Table of Contents furnished by the deciding official.

§ 4.337 Action by the Board.

(a) The Board may make a final decision, or where the record indicates a need for further inquiry to resolve a genuine issue of material fact, the Board may require a hearing. All hearings shall be conducted by an administrative law judge of the Office of Hearings and Appeals. The Board may, in its discretion, grant oral argument before the Board.

(b) Where the Board finds that one or more issues involved in an appeal or a matter referred to it were decided by the Bureau of Indian Affairs based upon the exercise of discretionary authority committed to the Bureau, and the Board has not otherwise been permitted to adjudicate the issue(s) pursuant to § 4.330(b) of this part, the Board shall dismiss the appeal as to the issue(s) or refer the issue(s) to the Assistant Secretary—Indian Affairs for further consideration.

§ 4.338 Submission by administrative law judge of proposed findings, conclusions and recommended decision.

(a) When an evidentiary hearing pursuant to § 4.337(a) of this part is concluded, the administrative law judge shall recommend findings of fact and conclusions of law, stating the reasons for such recommendations. A copy of the recommended decision shall be sent to each party to the proceeding, the Bureau official involved, and the Board. Simultaneously, the entire record of the proceedings, including the transcript of the hearing before the administrative law judge, shall be forwarded to the Board.

(b) The administrative law judge shall advise the parties at the conclusion of the recommended decision of their right to file exceptions or other

comments regarding the recommended decision with the Board in accordance with § 4.339 of this part.

§ 4.339 Exceptions or comments regarding recommended decision by administrative law judge.

Within 30 days after receipt of the recommended decision of the administrative law judge, any party may file exceptions to or other comments on the decision with the Board.

§ 4.340 Disposition of the record.

Subsequent to a decision by the Board, the record filed with the Board and all documents added during the appeal proceedings, including the Board's decision, shall be forwarded to the official of the Bureau of Indian Affairs whose decision was appealed for proper disposition in accordance with rules and regulations concerning treatment of Federal records.

WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985; AUTHORITY OF ADMINISTRATIVE JUDGES; DETERMINATIONS OF THE HEIRS OF PERSONS WHO DIED ENTITLED TO COMPENSATION

SOURCE: 56 FR 61383, Dec. 3, 1991, unless otherwise noted.

§ 4.350 Authority and scope.

(a) The rules and procedures set forth in §§ 4.350 through 4.357 apply only to the determination through intestate succession of the heirs of persons who died entitled to receive compensation under the White Earth Reservation Land Settlement Act of 1985, Public Law 99-264 (100 Stat. 61), amended by Public Law 100-153 (101 Stat. 886) and Public Law 100-212 (101 Stat. 1433).

(b) Whenever requested to do so by the Project Director, an administrative judge shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Settlement Act of 1985 as amended, notwithstanding the decedent may have died testate.

(c) As used herein, the following terms shall have the following meanings:

(1) The term *Act* means the White Earth Reservation Land Settlement Act of 1985 as amended.

(2) The term *Board* means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary.

(3) The term *Project Director* means the Superintendent of the Minnesota Agency, Bureau of Indian Affairs, or other Bureau of Indian Affairs official with delegated authority from the Minneapolis Area Director to serve as the federal officer in charge of the White Earth Reservation Land Settlement Project.

(4) The term *party (parties) in interest* means the Project Director and any presumptive or actual heirs of the decedent, or of any issue of any subsequently deceased presumptive or actual heir of the decedent.

(5) The term *compensation* means a monetary sum, as determined by the Project Director, pursuant to section 8(c) of the Act.

(6) The term *administrative judge* means an administrative judge or an administrative law judge, attorney-advisor, or other appropriate official of the Office of Hearings and Appeals to whom the Director of the Office of Hearings and Appeals has redelegated his authority, as designee of the Secretary, for making heirship determinations as provided for in these regulations.

(7) The term *appellant* means a party aggrieved by a final order or final order upon reconsideration issued by an administrative judge who files an appeal with the Board.

[56 FR 61383, Dec. 3, 1991; 56 FR 65782, Dec. 18, 1991, as amended at 64 FR 13363, Mar. 18, 1999]

§ 4.351 Commencement of the determination process.

(a) Unless an heirship determination which is recognized by the Act already exists, the Project Director shall commence the determination of the heirs of those persons who died entitled to receive compensation by filing with the administrative judge all data, identifying the purpose for which they are being submitted, shown in the records relative to the family of the decedent.

(b) The data shall include but are not limited to:

