



STATE OF CALIFORNIA

Governor's Office of Planning and Research
State Clearinghouse



Gray Davis
GOVERNOR

April 5, 2000

Loretta Lynch
DIRECTOR

TO: Reviewing Agencies (see attached list)

RE: SCH# 99-015: Notice of Land Acquisition Application to Transfer Property into Trust for the Karuk Tribe by the United States (Siskiyou & Humboldt County).

Enclosed for your review and comment is a notice from the Department of Interior, Bureau of Indian Affairs (BIA) regarding the above referenced application for transfer of land to Indian trust. Transferring land from private ownership to Indian trust removes the land from the property tax roll and essentially exempts it from State and local codes and regulations. For example, development of Indian trust land is not subject to either local zoning codes or the California Environmental Quality Act.

Please review the proposal and respond to the BIA within 30 days of receipt of this notice, with concurrent copies to the State Clearinghouse, the California Department of Justice (to the attention of Deputy Attorney General Sara Drake), and the Governor's Office of Legal Affairs (to the attention of Chief Deputy Legal Affairs Secretary Robert Shuman).

Please direct comments to:

Elaina M. Doyle
Bureau of Indian Affairs
Sacramento Area Office
2800 Cottage Way
Sacramento, California 95825

If you have any questions on this matter, please call us at (916) 445-0613. Also, comments may be faxed to us at (916) 323-3018. Thank you for your cooperation.

Sincerely,

Terry Roberts,
Senior Planner, State Clearinghouse

Enclosure

BIA Distribution List

* Select one or more from these three groups

Sara Drake
Deputy Attorney General
Department of Justice

Bob Shuman
Chief Deputy, Legal Affairs
Governor's Office

Resources Agency

Nadell Gayou
Resources Agency
1020 Ninth Street, Third Floor
Sacramento, CA 95814
916/327-1722 Fax 916/327-1648

Susie Betzler
Dept. of Boating & Waterways
1629 S Street
Sacramento, CA 95814
916/445-6281 Fax 916/327-7250

Elizabeth A. Fuchs
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
415/904-5200 Fax 415/904-5400

Ken Trott
Dept. of Conservation
801 K Street, MS-24-02
Sacramento, CA 95814
916/445-8733 Fax 916/324-0948

Allen Robertson
Dept. of Forestry & Fire Protection
1416 Ninth Street, Room 1516-24
Sacramento, CA 95814
916/657-0300 Fax 916/653-8957

Hans Kreutzberg
Office of Historic Preservation
P.O. Box 942896
Sacramento, CA 94296-0001
916/653-6624 Fax 916/653-9824

Beth Walls
Resource Management Division
Dept. of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001
916/653-6725 Fax 916/657-3355

Pam Bruner
Reclamation Board
1416 Ninth Street, Room 1601
Sacramento, CA 95814
916/653-5434 Fax 916/653-5805

Steve McAdam
S.F. Bay Conservation & Dev't. Comm.
30 Van Ness Avenue, Room 2011
San Francisco, CA 94102
415/557-3686 Fax 415/557-3767

Health & Welfare

Wayne Hubbard
Dept. of Health/Drinking Water
601 N. 7th Street, PO Box 942732
Sacramento, CA 94234-7320
916/445-2519 Fax 916/327-6092

* Fish and Game

Joe Vincenty
Department of Fish and Game
Environmental Services Division
1416 Ninth Street, 13th Floor
Sacramento, CA 95814
916/653-1070 Fax 916/653-2588

Donald Koch (Region 1)
Department of Fish and Game
601 Locust Street
Redding, CA 96001
530/225-2363 Fax 530/225-2381

Banky Curtis (Region 2)
Department of Fish & Game
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
916/358-2898 Fax 916/358-2912

Brian Hunter (Region 3)
Department of Fish and Game
P.O. Box 47
Yountville, CA 94599
707/944-5518 Fax 707/944-5563

George Nokes (Region 4)
Department of Fish and Game
1234 East Shaw Avenue
Fresno, CA 93710
559/445-6152 Fax 559/445-6607

Sandy Peterson (Region 5)
Department of Fish and Game
Habitat Conservation Program
4949 Viewridge Avenue
San Diego, CA 92123
858/467-4234 Fax 858/467-4299

Cheryl Avants (Region 6)
Department of Fish and Game
Habitat Conservation Program
330 Golden Shore, Suite 50
Long Beach, CA 90802
562/590-5159 Fax 562/590-5192

Tammy Allen (Region 6, Inyo/Mono)
Department of Fish and Game
Habitat Conservation Program
407 West Line Street, Room 8
Bishop, CA 93514
760/872-1461 Fax 760/872-1284

DeWayne Johnston (Marine Region)
Department of Fish and Game
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940
831/649-2870 Fax 831/649-2894

Independent Commissions/Agencies

Greg Newhouse
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814
916/654-5000 Fax 916/654-3882

Debbie Treadway
Native American Heritage Comm.
915 Capitol Mall, Room 364
Sacramento, CA 95814
916/653-4082 Fax 916/657-5390

Andrew Barnsdale
Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
415/703-3231 Fax 415/703-1184

Betty Silva
State Lands Commission
100 Howe Avenue, Suite 100-S
Sacramento, CA 95825
916/574-1872 Fax 916/574-1885

Gerald R. Zimmerman
Colorado River Board
770 Fairmont Avenue, Suite 100
Glendale, CA 91203-1035
818/543-4676 Fax 818/543-4685

Tahoe Regional Planning
Environmental Review
P.O. Box 1038
Zephyr Cove, NV 89448
702/588-4547 Fax 702/588-4527

John Rowden, Manager
Office of Emergency Services
11030 White Rock Road, Ste.110
Rancho Cordova, CA 95670
916/464-1014 Fax 916/464-1019

Debby Eddy
Delta Protection Commission
P.O. Box 530
Walnut Grove, CA 95690
916/776-2290 FAX 776-2293

* Department of Transportation District Contacts

IGR/Planning
Caltrans, District 1
P.O. Box 3700
Eureka, CA 95502-3700
707/441-5812 Fax 707/441-5869

Vicki Roe
Local Development Review
Caltrans, District 2
P.O. Box 496073
Redding, CA 96049-6073
530/225-3089 Fax 530/225-3271

Jeff Pulverman
Caltrans, District 3
P.O. Box 942874 MS-41
Sacramento, CA 94274-0001
916/327-3859 Fax 916/323-7669

Jean Finney
Caltrans, District 4
P.O. Box 23660
Oakland, CA 94623-0660
510/286-5572 Fax 510/286-5513

Lawrence Newland
Caltrans, District 5
50 Higuera Street
San Luis Obispo, CA 93401-5415
805/549-3683 Fax 805/549-3077

Marc Birnbaum
Caltrans, District 6
P.O. Box 12616
Fresno, CA 93778-2616
559/488-4260 Fax 559/488-4088

Stephen J. Buswell
Caltrans, District 7
120 South Spring Street, 1-10C
Los Angeles, CA 90012
213/897-4429 Fax 213/897-9210

Mike Sim
Caltrans, District 8
464W, 4th Street, 7th Floor
San Bernardino, CA 92401-1400
909/383-4808 Fax 909/383-5936

Robert Ruhnke
Caltrans, District 9
500 South Main Street
Bishop, CA 93514
760/872-0689 Fax 760/872-0678

Chris Sayre
Caltrans, District 10
P.O. Box 2048
Stockton, CA 95201
209/948-7142 Fax 209/948-7906

Lou Salazar
Caltrans, District 11
P.O. Box 85406, MS 6-5
2829 Juan Street
San Diego, CA 92186-5406
619/688-3140 Fax 619/688-4299

Aileen Kennedy
Caltrans, District 12
2501 Pullman St.
Santa Ana, CA 92705
949/724-2239 Fax 949/724-2592

Business, Transportation, & Housing

Cathy Creswell
Housing & Community Development
Housing Policy Division
1800 Third Street, Room 430
Sacramento, CA 95814
916/323-3176 Fax 916/327-2643

Sandy Hesnard
Caltrans - Division of Aeronautics
P.O. Box 942874 MS-40
Sacramento, CA 94274-0001
916/654-5314 Fax 916/653-9531

Lt. Dennis Brunette
California Highway Patrol
Office of Special Projects
2555 1st Ave.
Sacramento, CA 95818
916/657-7222 Fax 916/452-3151

Ron Helgeson
Caltrans - Planning
P.O. Box 942874
Sacramento, CA 94274-0001
916/653-9966 Fax 916/653-0001

State and Consumer Services

Robert Sleppy
Dept. of General Services
400 R Street, Suite 5000
Sacramento, CA 95814
916/324-0214 Fax 916/445-3556

California Environmental Protection Agency

Air Resources Board
2020 L Street (PO Box 2815)
Sacramento, CA 95814 (95814-2815)
916/327-5783 Fax 916/322-3646

Rob Rogen
(airport projects)

Ann Geraghty
(transportation projects)

Mike Tollstrup
(industrial projects)

Jeanie Blakeslee
Calif. Waste Management Board
8800 Cal Center Drive
Sacramento, CA 95826
916/255-4708 Fax 916/255-4216

Diane Edwards
State Water Resources Control Board
Division of Clean Water Programs
P.O. Box 944212
Sacramento, CA 94244-2120
916/227-4572 Fax 916/227-4349.

Phil Zeatner
State Water Resources Control Board
Division of Water Quality
P.O. Box 944213
Sacramento, CA 94244-2130
916/657-0912 Fax 916/657-2388

SCH# 2000-99-015

Mike Falkenstein
State Water Resources Control Board
Division of Water Rights
901 P Street, 3rd Floor
Sacramento, CA 95814
916/657-1377 Fax 916/657-1485

Dept. of Toxic Substances Control
CEQA Tracking Center
400 P Street, Fourth Floor
P.O. Box 806
Sacramento, CA 95812-0806
916/324-3119 Fax 916/324-1788

* Regional Water Quality Control Board

North Coast Region (1)
Cathy Goodwin
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403
707/576-2220 Fax 707/523-0135

San Francisco Bay Region (2)
Environmental Document Coordinator
1515 Clay Street, Suite 1400
Oakland, CA 94612
510/622-2300 Fax 510/622-2460

Central Coast Region (3)
81 Higuera Street, Suite 200
San Luis Obispo, CA 93401-5427
805/549-3147 Fax 805/543-0397

Los Angeles Region (4)
Jonathan Bishop
320 West 4th Street, Suite 200
Los Angeles, CA 90013
213/576-6600 Fax 213/576-6640

Central Valley Region (5)
3443 Rautier Road, Suite A
Sacramento, CA 95827-3003
916/255-3000 Fax 916/255-3015

Fresno Branch Office
3614 East Ashlan Avenue
Fresno, CA 93726
559/445-5116 Fax 559/445-5910

Redding Branch Office
415 Knollcrest Drive
Redding, CA 96002
916/224-4845 Fax 916/224-4857

Lahontan Region (6)
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150
530/542-5400 Fax 530/544-2271

Victorville Branch Office
15428 Civic Drive, Suite 100
Victorville, CA 92392-2359
760/241-6583 Fax 760/241-7308

Colorado River Basin Region (7)
73720 Fred Waring Drive, #100
Palm Desert, CA 92260-2564
760/782-7495 Fax 760/341-6820

Santa Ana Region (8)
3737 Main Street, Suite 500
Riverside, CA 92501-3339
909/782-4130 Fax 909/781-6288

San Diego Region (9)
9771 Clairemont Mesa Blvd., Suite B
San Diego, CA 92124-1324
619/467-2952 Fax 619/571-6972



IN REPLY REFER TO:

United States Department of the Interior

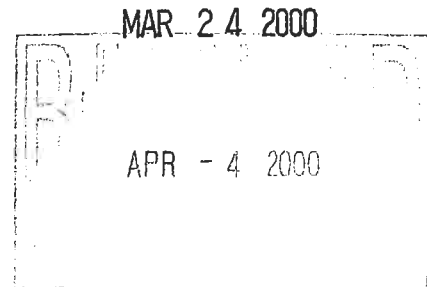
BUREAU OF INDIAN AFFAIRS

Sacramento Area Office
2800 Cottage Way
Sacramento, California 95825



CERTIFIED MAIL - # Z 384 608 884 - RETURN RECEIPT REQUESTED

State Clearinghouse
Office of Planning & Research
State of California
1400 Tenth Street, Room 121
Sacramento, California 95814



Gentlemen:

Enclosed for your appropriate distribution are ten copies of our Notice of Application seeking acceptance of title to real property "in trust for the Karuk Tribe of California, so named therein by the authorized representative of the Secretary of the Interior on behalf of the United States of America. Said Notice is issued pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151.10, 151.11.

Sincerely,

Acting

Regional Director

Enclosure(s)



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Sacramento Area Office
2800 Cottage Way
Sacramento, California 95825



MAR 24 2000

NOTICE OF LAND ACQUISITION APPLICATION

Pursuant to the Code of Federal Regulations, Title 25, INDIANS, Part 151, as amended, notice is given of the application filed by the Karuk Tribe of California Indians, to have real property accepted into Trust for the Karuk Tribe 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 also request that you provide the following information.

- (1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;
- (2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;
- (3) Any 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(S)

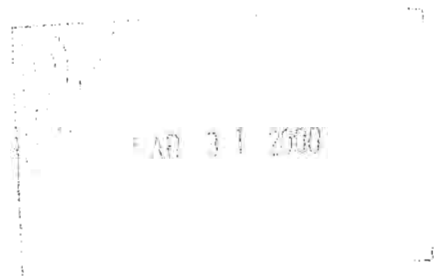
Karuk Tribe of California

LEGAL LAND DESCRIPTION

APN: 33-610-120 / 150 - UPPER KATIMIN

Parcel 1:

Indian Allotment Survey No. 321 A, being a portion of the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M. being more particularly desired as: That portion of Indian Allotment Survey No. 321 in Section 33, Township 12 North, Range 6 East, H. M.



That portion of Indian Allotment Survey No. 321 in Sec. 33, T.12N., R. 6 E., H.M.

Beginning at the Northeast corner of said allotment, thence in a Southwesterly direction along the North boundary to the Northwest corner of said allotment; thence in a Southern direction along the entire West boundary of said allotment to the Southwest corner thereof; thence in a Northeasterly direction along the South boundary of said allotment to a point 120.0 feet West of the Southeast corner thereof; thence in a Northwesterly direction at an angle of ninety degrees from the South boundary line for a distance of approximately 100 feet to a peppernut tree; thence in a Northeasterly direction to a madrone tree on the East boundary of said Allotment (said tree being approximately 140 feet from the Southeast boundary of said allotment); thence from said madrone tree along the East boundary of said allotment to the POINT OF BEGINNING.

SAVING AND EXCEPTING THEREFROM that portion of Indian Allotment Survey No. 321, approved December 10, 1935 in Section 33, Township 12 North, Range 6 East, H.M., lying Easterly of the line described as:

COMMENCING at corner No. 7, as shown on the plat of said Indian Allotment Survey No. 321, marked by a 2 inch pipe W/G.L.O. cap AP I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said survey marked by a 2 inch pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North $00^{\circ}59'43''$ West, 210.69 feet (Record as shown on the plat of said Survey==North 2° West, 31.9 chains); thence along the Southerly line of said Survey, North $70^{\circ}06'17''$ East, 216.53 feet to a point from which Engineer's Station "A" 3+54.63 P.O.T., as established from the Department of Public Works 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South $85^{\circ}27'19''$ East 66.00 feet, being the TRUE POINT OF BEGINNING of this line; thence North $04^{\circ}32'41''$ East 235 feet, more or less, to the Point of Termination of this line on the Northeasterly line of said Indian Allotment Survey No. 321;

EXCEPTING THEREFROM that portion thereof conveyed to Lafayette Donahue by patent from the United States of America, recorded September 25, 1964 in Book 508 at page 345, Official Records of Siskiyou County.

PARCEL II:

All that portion of Indian Allotment Survey No. 321 B in the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M., lying Westerly of and adjacent to the following described line and Southerly prolongation thereof.

COMMENCING at corner No. 7 as shown on the plat of Indian Allotment Survey No. 321 approved December 10, 1935, marked by a 2" pipe W/G.L.O. Cap AP1 I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said Survey marked by a 2" pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North 00° 59' 43" West, 210.69 feet (Record as shown on the plat of said Survey == North 2° West, 31.9 chains); thence, along the Southerly line of said Survey, North 70° 06' 17" East, 179.18 feet to a point from which Engineer's Station "A" 3+39.18 P.O.T., as established from the Department of Public Works 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South 85° 27' 19" East 100.00 feet, said point begin the TRUE POINT OF BEGINNING, thence North 04° 32' 41" East, 200 feet.

The bearings used in the above description are on the California coordinate system, Zone 1, and the distances are surface. Containing 0.9 acres (33-610-120), .1 acre (33-610-150), more or less.

APN: 033-610-070 / 033-610-100 - ISHI-PISHI (BUEHLER)

All that real property situate in the County of Siskiyou, State of California, described as follows:

Lots 316A and 316C in Section 33, Township 12 North, Range 6 East, Humboldt Meridian, Siskiyou County, California. Containing 2.6 acres (033-610-070); 1.1 acre (033-610-100) more or less.

APN: 26-550-150 - ELLIOTT CREEK

Parcel 1A, according to that certain Parcel Map for James and Kathy Kutzer, recorded June 12, 1986, in Book 10 of Parcel Maps, at page 57, Siskiyou County Records, located in Section 20, Township 14 North, Range 6 East, H.M., Siskiyou County, California. Containing 16 acres, more or less.

APN: 529-132-21- Y - PANAMNIK (GERA)

That real property situated in the County of Humboldt, State of California, described as follows:

Commencing at a point on the South line of State Highway 96, from which US Mineral Monument No. 22 bears South 69° 11" West, a distance of 1802.8 feet, also from which the quarter corner between Section 36 in Township 11 North, Range 5 East, and Section 31 in Township 11 North, Range 6 East, Humboldt Base & Meridian, bears North 13° 41" West, a distance of 1153.1 feet, said point also being the Northwest corner of Parcel Two described in Deed to Orleans Veneer and Lumber Company, a Corporation, recorded July 21, 1955, in Book 348, Page 646, Humboldt County Official Records;

Thence South 7° 59" East along the West line of said Orleans Veneer and Lumber Company parcel and its southerly prolongation a distance of 400.9 feet to the southerly line of the Haines Placer Mining Claim, as described in Patent recorded in Book 23 of Patents, page 342, Humboldt County Records;

Thence along the southerly boundary of said Mining Claim North 69° 15" East, 67.9 feet and North 70° East, a distance of 330.1 feet to the TRUE POINT OF BEGINNING of the Parcel to be described herein;

Thence from said true point of beginning North 6° 02" East, 111 feet to the centerline of exiting road right of way,

Thence easterly along the centerline of said road, 150 feet,

Thence South 6° 02" West, 90 feet, more or less, to the southerly line of said Haines Placer Mining Claim;

Thence South 70° West along said last mentioned line, 150 feet, more or less, to the true point of beginning. Containing .25 acres, more or less.

 PROPOSED LAND USE:

The Karuk Tribe intends to restore these ceremonial, burial and sacred sites back to the original protected state. The Tribe intends on debris-clearing and regular maintenance activities; there are no plans to alter the present use. This application is consistent with the proposed Land Consolidation Plan, which includes acquisition of additional lands held in trust within the Karuk Ancestral Territory to restore ceremonial and village sites.

CURRENT TAXES AND ZONING:

Current taxes have been paid for 1998-1999. There are no records of any previous permits of development with the subject sites.

EXISTING EASEMENTS/ENCUMBRANCES:

Upper Katimin property: Easement for the Siskiyou Telephone Company, for poles, conduits and incidental purposes.

Elliott Creek property: Easement for Public Access to an existing cemetery 20 foot wide; building set back line, 30 feet from lot lines; no subsurface disturbance within 115' x 165' area around cemetery as noted on town map book 7, pages 51 and 52 and on Lot 1 will be monitored.

SUPPLEMENTAL DATA:

The parcels of this request are targeted sites for cultural preservation.

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 above address. 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 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(s). You will be notified of the decision to approve or deny the application.

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 Elaina M. Doyle, Realty Specialist, at the above address or (916) 978-6098.

Sincerely,



Acting Regional Director

Enclosure(s)
Legal Descriptions
Site Map(s)

cc: BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED TO:

Board of Supervisors - Z 384 608 877
County of Siskiyou
P. O. Box 338
Yreka, California 96097

Planning Director, Planning Department - Z 384 608 870
County of Siskiyou
P. O. Box 1085
Yreka, California 96097

Siskiyou County Treasurer - Z 384 608 871
and Tax Collector
P. O. Box 600
Yreka, California 96097

State Clearinghouse - Z 384 608 872
Office of Planning and Research
State of California
1400 Tenth Street, Rm. 121
Sacramento, California 95814

Mr. Eric M. George, Deputy Legal Affairs Secretary - Z 384 608 873
Office of the Governor
State Capitol Building
Sacramento, California 95814

Ms. Sara Drake, Deputy Attorney General - Z 384 608 874
State of California
Department of Justice
P. O. Box 944255
Sacramento, California 94244-2550

Mr. Alvis Johnson, Chairman - Z 384 608 875
Karuk Tribe of California
P. O. Box 1016
Happy Camp, California 96039

REGULAR MAIL

Superintendent, Northern California Agency
1900 Churn Creek, Suite 300
Redding, California 96002

Thomas D. Conlon, Director – Z 384 608 905
Humboldt County Planning Division
3015 H. Street
Eureka, California 95501-4484

Treasurer and Tax Collector - Z 384 608 906
County of Humboldt
825 5th Street
Eureka, California 95501

Board of Supervisors - Z 384 608 907
County of Humboldt
825 5th Street
Eureka, California 95501

EXHIBIT "A"

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL I:

Indian Allotment Survey No. 321 A, being a portion of the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M. being more particularly described as:

That portion of Indian Allotment Survey No. 321 in Section 33, Township 12 North, Range 6 East, H.M.

BEGINNING at the Northeast corner of said allotment, thence in a Southwesterly direction along the North boundary to the Northwest corner of said allotment; thence in a Southern direction along the entire West boundary of said allotment to the Southwest corner thereof; thence in a Northeasterly direction along the South boundary of said allotment to a point 120 feet West of the Southeast corner thereof; thence in a Northwesterly direction at an angle on ninety degrees from the South boundary line for a distance of approximately 100 feet to a peppernut tree; thence in a Northeasterly direction to a madrone tree on the East boundary of said Allotment (said tree being approximately 140 feet from the Southeast boundary of said allotment); thence from said madrone tree along the East boundary of said allotment to the POINT OF BEGINNING.

SAVING AND EXCEPTING THEREFROM that portion of Indian Allotment Survey No. 321, approved December 10, 1935 in Section 33, Township 12 North, Range 6 East, H.M., lying Easterly of the line described as:

COMMENCING at corner No. 7, as shown on the plat of said Indian Allotment Survey No. 321, marked by a 2 inch pipe W/G.L.O. Cap AP I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said survey marked by a 2 inch pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North $00^{\circ} 59' 43''$ West, 210.69 feet (Record as shown on the plat of said survey = North 2° West, 31.9 chains); thence along the Southerly line of said Survey, North $70^{\circ} 06' 17''$ East, 216.53 feet to a point from which Engineer's Station "A" 3+54.63 P.O.T., as established from the Department of Public Works' 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South $85^{\circ} 27' 19''$ East, 66.00 feet, being the TRUE POINT OF BEGINNING of this line; thence North $04^{\circ} 32' 41''$ East 235 feet, more or less, to the Point of Termination of this line on the Northeasterly line of said Indian Allotment Survey No. 321;

EXCEPTING THEREFROM that portion thereof conveyed to Lafayette Donahue by patent from the United States of America, recorded September 25, 1964 in Book 508 at page 345, Official Records of Siskiyou County.

PARCEL II:

All that portion of Indian Allotment Survey No. 321 B in the Southeast quarter of the Southwest quarter of Section 33, Township 12 North, Range 6 East, H.M., lying Westerly of and adjacent to the following described line and Southerly prolongation thereof.

(Continued)

60896-DN

COMMENCING at corner No. 7 as shown on the plat of Indian Allotment Survey No. 321 approved December 10, 1935, marked by a 2" pipe W/G.L.O. Cap AP1 I.A.S. 311 AP7 I.A.S. 321, from which corner No. 6 as shown on said plat of said Survey marked by a 2" pipe W/G.L.O. Cap AP6 I.A.S. 321 AP2 I.A.S. 311, bears North $00^{\circ} 59' 43''$ West, 210.69 feet (Record as shown on the plat of said Survey = North 2° West 3.19 chains); thence, along the Southerly line of said Survey, North $70^{\circ} 06' 17''$ East, 179.18 feet to a point from which Engineer's Station "A" 3+39.18 P.O.T., as established from the Department of Public Works 1964 Survey between Somes Bar and Ti Creek, Road 01-Sis-96, bears South $85^{\circ} 27' 19''$ East 100.00 feet, said point begin the TRUE POINT OF BEGINNING; thence North $04^{\circ} 32' 41''$ East, 200 feet.

The bearings used in the above description are on the California Coordinate System, Zone 1, and the distances are surface.

LEGAL DESCRIPTION

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SISKIYOU, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

Lots 316A and 316C in Section 33, Township 12 North, Range 6 East, Humboldt
Meridian, Siskiyou County, California.

c

EXHIBIT "A"

PARCEL DESCRIPTION:

Parcel 1A, according to that certain Parcel Map for James and Kathy Kutzer, recorded June 12, 1986 in Book 10 of Parcel Maps, at page 57, Siskiyou County Records, located in Section 20, Township 14 North, Range 6 East, H.M., Siskiyou County, California.

EXHIBIT "A"

That real property situated in the County of Humboldt, State of California, described as follows:

Commencing at a point on the South line of State Highway 96, from which US Mineral Monument No. 22 bears South 69 degrees 11 minutes West, a distance of 1802.8 feet, also from which the Quarter corner between Section 36 in Township 11 North Range 5 East, and Section 31 in Township 11 North, Range 6 East, Humboldt Base & Meridian, bears North 13 degrees 41 minutes West, a distance of 1153.1 feet, said point also being the Northwest corner of Parcel Two described in Deed to Orleans Veneer and Lumber Company, a corporation, recorded July 21, 1955, in Book 348, Page 646, Humboldt County Official Records;

thence South 7 degrees 59 minutes East along the West line of said Orleans Veneer and Lumber Company parcel and its southerly prolongation a distance of 400.9 feet to the southerly line of the Haines Placer Mining Claim, as described in Patent recorded in Book 23 of Patents, page 342, Humboldt County Records;

thence along the southerly boundary of said Mining Claim North 69 degrees 15 minutes East, 67.9 feet and North 70 degrees East, a distance of 330.1 feet to the TRUE POINT OF BEGINNING of the Parcel to be described herein;

thence from said true point of beginning North 6 degrees 02 minutes East, 111 feet to the centerline of existing road right of way;

thence easterly along the centerline of said road, 150 feet;

thence South 6 degrees 02 minutes west, 90 feet, more or less, to the southerly line of said Haines Placer Mining Claim;

thence south 70 degrees west along said last mentioned line, 150 feet, more or less, to the true point of beginning.

APN 529-132-21

T 12 N R 6 E H.M.
S 1/2 of Sec. 33

Tax Area Code 33-61
85-00

THIS PLAT IS FURNISHED FOR INFORMATION. IT IS
COMPILED FROM DATA WHICH WE BELIEVE TO BE
ACCURATE, BUT NO LIABILITY IS ASSUMED BY THE
COMPANIES AS TO THE CORRECTNESS OF SUCH DATA.

SISKIYOU COUNTY TITLE CO.



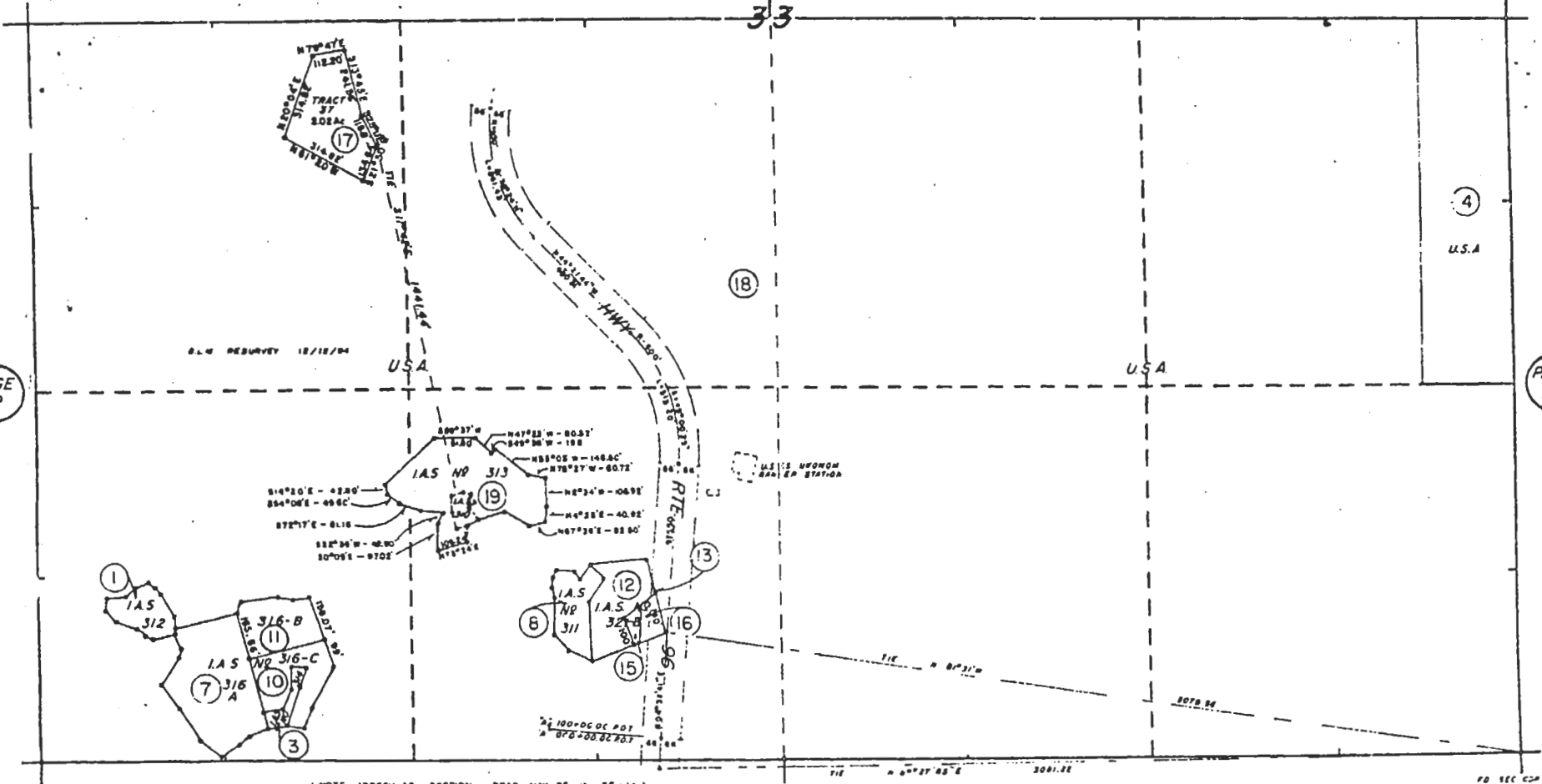
PAGE
12

33

PAGE
11

PAGE
14

PAGE
12



(NOTE - IRREGULAR SECTION - ROAD MAY BE IN SE 1/4)

Assessor's Map
County of Siskiyou, California

RAD, WILLIS JR. ----- Tract 37 No.17.
 ANUE, JENNIE ----- I.A.S.#316-B No.11.
 ANUE, JENNIE ----- I.A.S.#316-A & 316-C
 (Lyle N. & Florence G. Buehler) Nos. 7 & 10.
 SEN, FRITZ ----- I.A.S.#321-B
 (Lyle H. Bruce Throgmorton et al) No.12.
 RY, PETE ----- I.A.S.#313
 (Lyle H. & Vivki A. Throgmorton)
 (Lyle H. & Vivki A. Throgmorton) No.19.

PEPPER, DOLLY -----I.A.S.#314
 (Andrew SR. & Macaria S. Rzd) No.3.

T 12 N R 6 E HM
S 1/4 of Sec 33

Tax Area Code
 85-00
 1992

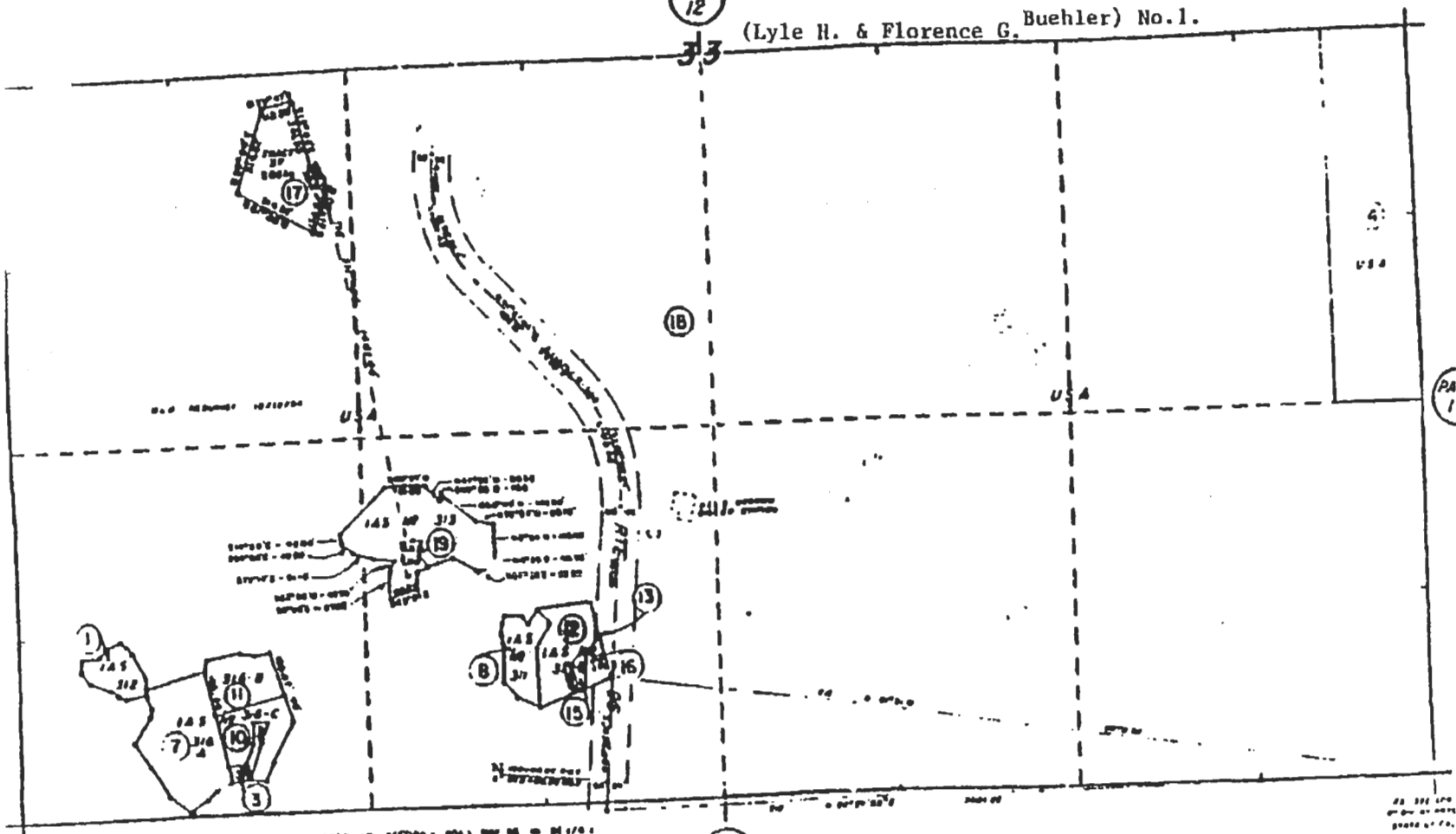
33-61

PEPPER, JOHNNY ----- I.A.S.#311
 (Bessie Albars Attebury) No.8.
 TOM, BEN ----- I.A.S.#312
 (Jack & Walter & Cecilia Heidenrich) No.1.
 (Lyle H. & Florence G. Buehler) No.1.

PAGE 12

PAGE 11

PAGE 14

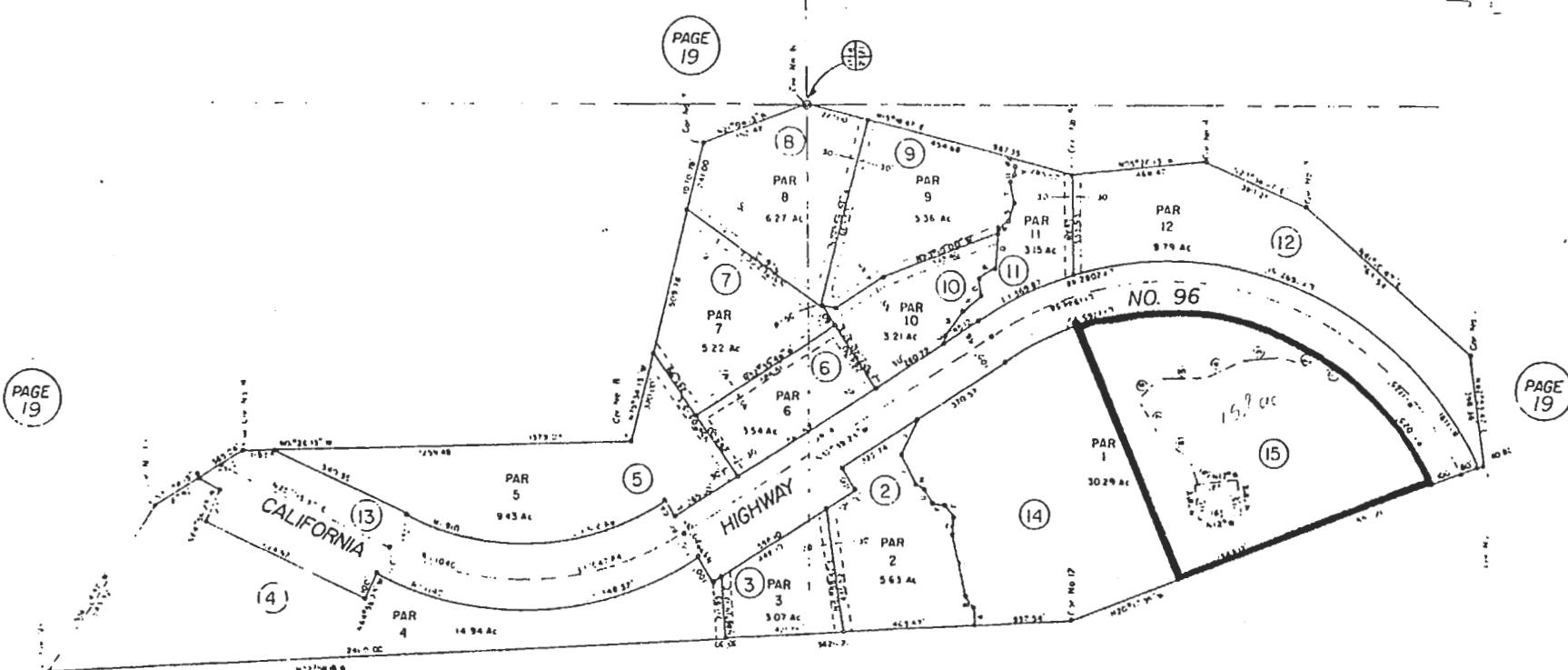
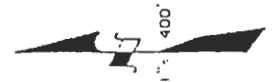


Assessor's Map
 County of Siskiyou, California

T14N R6E H.M.
 ELLIOTT CREEK RETREAT
 TRACT No. 1135

Tax Area Code
 85-01

26 - 55



PAGE 19

PAGE 19

PAGE 19

PAGE 19

"This map may or may not be a survey of the land depicted hereon. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. First American expressly disclaims any liability for alleged loss or damage which may result from reliance upon this map."

| LINE | Bearing | Distance |
|------|-------------|----------|
| 1 | N 78° 15' E | 100.00 |
| 2 | S 78° 15' E | 100.00 |
| 3 | N 12° 15' E | 100.00 |
| 4 | S 12° 15' E | 100.00 |
| 5 | N 78° 15' E | 100.00 |
| 6 | S 78° 15' E | 100.00 |
| 7 | N 12° 15' E | 100.00 |
| 8 | S 12° 15' E | 100.00 |
| 9 | N 78° 15' E | 100.00 |
| 10 | S 78° 15' E | 100.00 |
| 11 | N 12° 15' E | 100.00 |
| 12 | S 12° 15' E | 100.00 |
| 13 | N 78° 15' E | 100.00 |
| 14 | S 78° 15' E | 100.00 |
| 15 | N 12° 15' E | 100.00 |
| 16 | S 12° 15' E | 100.00 |
| 17 | N 78° 15' E | 100.00 |
| 18 | S 78° 15' E | 100.00 |
| 19 | N 12° 15' E | 100.00 |
| 20 | S 12° 15' E | 100.00 |

| LINE | Bearing | Distance |
|------|-------------|----------|
| 1 | N 78° 15' E | 100.00 |
| 2 | S 78° 15' E | 100.00 |
| 3 | N 12° 15' E | 100.00 |
| 4 | S 12° 15' E | 100.00 |
| 5 | N 78° 15' E | 100.00 |
| 6 | S 78° 15' E | 100.00 |
| 7 | N 12° 15' E | 100.00 |
| 8 | S 12° 15' E | 100.00 |
| 9 | N 78° 15' E | 100.00 |
| 10 | S 78° 15' E | 100.00 |
| 11 | N 12° 15' E | 100.00 |
| 12 | S 12° 15' E | 100.00 |
| 13 | N 78° 15' E | 100.00 |
| 14 | S 78° 15' E | 100.00 |
| 15 | N 12° 15' E | 100.00 |
| 16 | S 12° 15' E | 100.00 |
| 17 | N 78° 15' E | 100.00 |
| 18 | S 78° 15' E | 100.00 |
| 19 | N 12° 15' E | 100.00 |
| 20 | S 12° 15' E | 100.00 |

PTN TOWN OF ORLEANS

(IN SEC 36, 11N 5E & SEC 31, 11N 6E & BEING ALL OF LOT 39 & PTN OF LOT 37)

529-13

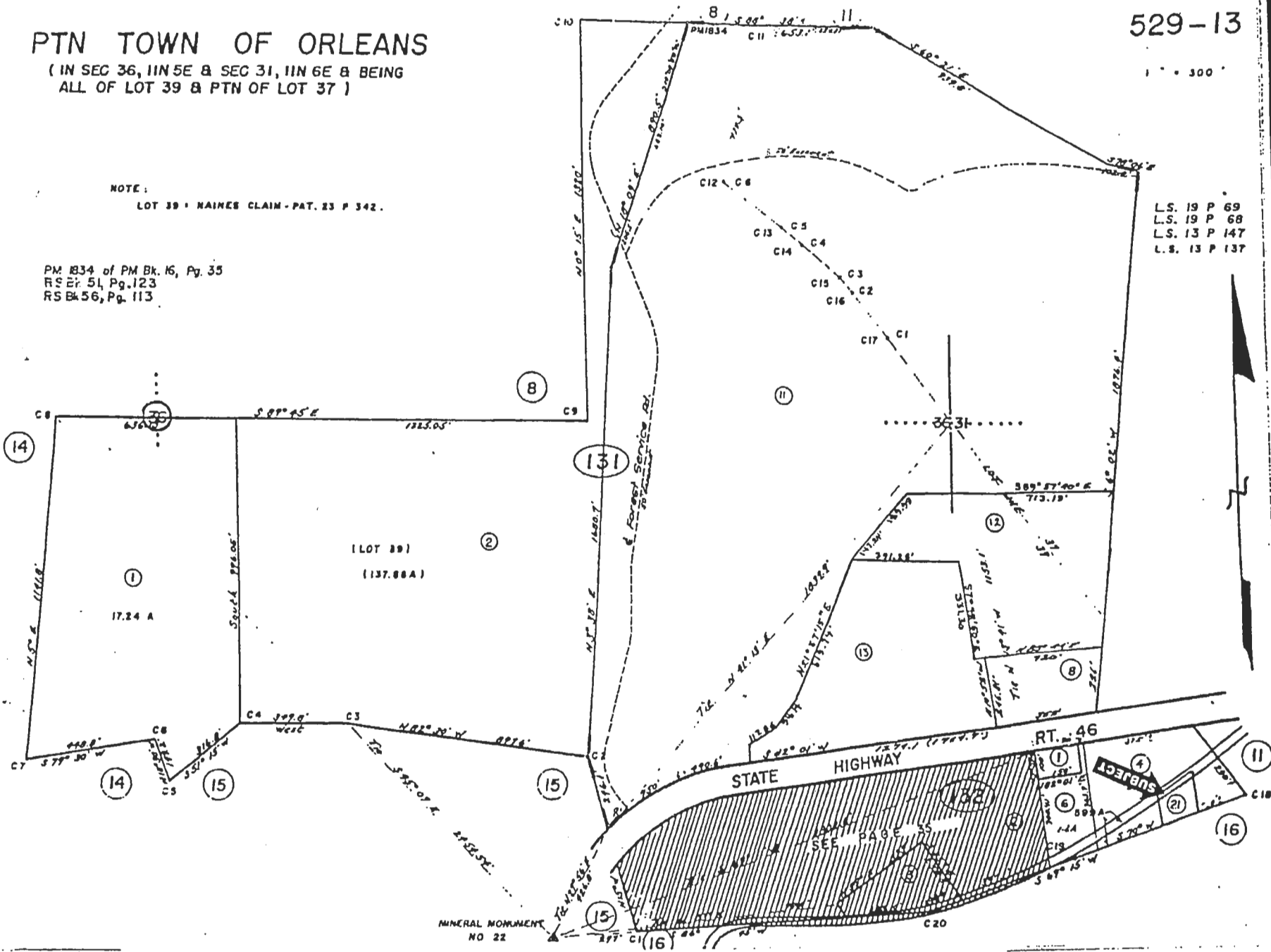
1" = 300'

NOTE:

LOT 39 - MAINE CLAIM - PAT. 23 P 342.

PM 1834 of PM Bk. 16, Pg. 35
 RS 21, Pg. 123
 RS Bk 56, Pg. 113

L.S. 19 P 69
 L.S. 19 P 68
 L.S. 13 P 147
 L.S. 13 P 137



Gera Parcel

Title 43, Code of Federal Regulations, Administrative
Appeals to the Interior Board
of Indian Appeals

§4.306

tate in one-half of the interests. The decision shall 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 administrative law judge shall 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.

[38 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 26, 1990]

§4.306 Time for payment.

A tribe shall pay the full fair market value of the interests purchased, as set forth in the appraisal 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 shall issue a certificate to the administrative law judge that this has been done and file therewith such documents in support thereof as the administrative law judge may require. The administrative law judge shall 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 shall 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.

43 CFR Subtitle A (10-1-94 Edition)

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

SOURCE: Sections 4.310 through 4.318 appear at 54 FR 6485, Feb. 10, 1989, 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) shall be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings shall 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 shall 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 representative shall 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

Office of the

nonbusiness

(the computat

(d) *Extensio*

filling or serv

Notice of ap

the Board.

(2) A requ

ension; of t

(the time orig

(3) For ex

grant an ext

initiative.

(e) *Retenti*

ments receiv

on-submitted

pending bef

tained with

proceeding.

tion, may

original do

pending or

final upon

the Board.

§4.311 Brie

(a) The ap

plied within

notice of c

serve copies

all interest

file a certif

ing service

posing part

days from

the file and

shall be ser

ounsel and

estr A certif

answer brie

shall be at

with the Bo

(b) Appel

swearing bri

receipt. A

off the repl

counsel sha

filed with t

permission

briefs will b

(c) The Bu

be consider

any procee

Board may

submit a b

Board.

(d) An o

ment shoul

Documents

the side.

dition)

PRO-
THE
PEALS

appear
herwise

filling
ument
of an
or the
that a
juris-
CFR
it is

and
arties
re the
by the
with

com-
mail-
in an
rep-
CFR
the at-
ce on
ented
ce on
a cer-
y or
name
rep-
icate
orney

and
ed by
time
doc-
dec-
r an-
any
ated
ot to
ss it
legal
7, in
the
Sat-
day,
the
s or
ays,
ther

Office of the Secretary of the Interior

§4.314

nonbusiness days shall be 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 shall 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 shall have 30 days from receipt of appellant's brief to file answer briefs, copies of which shall 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 shall 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 shall 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 Bureau of Indian Affairs shall be considered an interested party in any proceeding before the Board. The Board may request that the Bureau 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 shall 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 an official of the Bureau of Indian Affairs or an administrative law judge. Distribution of decisions shall 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 shall 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 shall 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 shall be liberally construed.

(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 shall be served in the same manner as appeal briefs.

§4.314 Exhaustion of administrative remedies.

(a) No decision of an administrative law judge or an official of the Bureau of Indian Affairs, which at the time of its rendition is subject to appeal to the Board, shall 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.

shall determine
ation.

mitted to those
e the adminis-
he petition for
regarding trib-
or before the
Indian Affairs
cept as specifi-
t or in title 25
egulations, the
ed in its scope
cise the inher-
secretary to cor-
or error where

**D OF INDIAN
MATTERS**

ough 4.323 appear
unless otherwise

ll have a right
of Indian Ap-
an administra-
ion for rehear-
ing, or regard-
terests in a de-
ete.

Within 60 days
sion, an appel-
notice of ap-
t, appellant's
ed representa-
R 1.3, with the
la, Office of
S. Department
on Boulevard.
A statement
nd law upon
d shall be in-
e of appeal or
vice of appeal
and addresses
ice of appeal
dismissed for

ntice of appeal.
onally deliver
e of appeal to
peals. A copy
administrative
is appealed as
rties. The no-
ne Board shall

Office of the Secretary of the Interior

§4.331

include a certification that service was
made as required by this section.

(c) *Action by administrative law judge;
record inspection.* The administrative
law judge, upon receiving a copy of the
notice of appeal, shall notify the Su-
perintendent 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 shall be con-
formed to the original by the Land Ti-
tles and Records Office and shall there-
after 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 ad-
ministrative law judge shall have a
transcript prepared which shall be for-
warded to the Board within 30 days
from receipt of a copy of the notice of
appeal.

**§4.321 Notice of transmittal of record
on appeal.**

The original record on appeal shall be
forwarded by the Land Titles and
Records Office to the Board by cer-
tified mail. Any objection to the record
as constituted shall 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 shall be docketed by the
Board upon receipt of the administra-
tive record from the Land Titles and
Records Office. All interested parties
as shown by the record on appeal shall
be notified of the docketing. The dock-
eting notice shall specify the time
within which briefs may be filed and
shall 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 be-
cause of the appeal and the Board's de-
cision, shall 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
shall be conformed to the original and
forwarded to the Superintendent con-
cerned.

**APPEALS TO THE BOARD OF INDIAN AP-
PEALS FROM ADMINISTRATIVE AC-
TIONS OF OFFICIALS OF THE BUREAU
OF INDIAN AFFAIRS: ADMINISTRATIVE
REVIEW IN OTHER INDIAN MATTERS
NOT RELATING TO PROBATE PRO-
CEEDINGS**

SOURCE: Sections 4.330 through 4.340 appear
at 64 FR 6487, Feb. 10, 1999, 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 ad-
ministrative actions or decisions of of-
ficials of the Bureau of Indian Affairs
issued under regulations in 25 CFR
chapter 1, and (2) administrative re-
view 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 Af-
fairs.

(b) Except as otherwise permitted by
the Secretary or the Assistant Sec-
retary—Indian Affairs by special dele-
gation 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

§4.332

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, 4015 Wilson Boulevard, 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

43 CFR Subtitle A (10-1-94 Edition)

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.

§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.

(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

Office of the Secretary

taken; all original documents, or applications, or proceedings which are initiated by interested parties; and copies of all proceedings upon which all proceedings are based.

(b) The administrative records include a Table of Contents, and a minimum, including: (1) The decision appealed; (2) The notice of appeal; and (3) Certification of the Board.

(c) The Board shall maintain all information utilized by the Board in deciding the decision appealed.

(d) If the decision appealed is not timely filed with the Assistant Secretary—Indian Affairs, the Board shall review the appeal. If the Board determines that the appeal is not timely, the Board shall forward the appeal to the Assistant Secretary—Indian Affairs for review.

§4.336 Docketing.

An appeal shall be docketed by the Board upon receipt of the notice of appeal. The Board shall maintain a record of the appeal. The Assistant Secretary—Indian Affairs shall assume jurisdiction over the appeal. A notice of appeal shall be sent to all interested parties. The record on appeal shall be filed with the Board. The docketing number shall be the same as the docketing number of the appeal. The docketing number shall be the same as the docketing number of the appeal.

§4.337 Action by the Board.

(a) The Board may, at its discretion, or where there is a genuine issue of fact, may require the appellant to appear before the Board. The Board may require the appellant to appear before the Board. The Board may require the appellant to appear before the Board.

ard shall be
istant Sec-

an Indian or
ed by coun-
the decision
st of the ap-
nce as is ap-
on of the ap-

he pendency
te bond may
e interest of
or other par-

f appeal.

e of filing of
pellant shall
ce upon each
upon the offi-
ndian Affairs
e appeal is
ssistant Sec-
The notice of
ard shall cer-
le as required
all show the
f all parties
s an Indian or
epresented by
y request the
ose decision is
vice of copies
and any sup-

l will be con-
rved upon the
r mailing.

e.
ns of time to
ranted upon a
except for the
office of appeal
§4.332 of this
d.

transmittal of
the Bureau of

er receipt of a
on notice from
f the Bureau of
decision is ap-
nd transmit the
e record on ap-
out limitation.
of testimony

taken; all original documents, peti-
tions, or applications by which the pro-
ceeding was initiated; all supplemental
documents which set forth claims of in-
terested 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 con-
tains all information and documents
utilized by the deciding official in ren-
dering the decision appealed.

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

§4.336 Docketing.

An appeal shall be assigned a docket
number by the Board 20 days after re-
ceipt of the notice of appeal unless the
Board has been properly notified that
the Assistant Secretary—Indian Affairs
has assumed jurisdiction over the ap-
peal. A notice of docketing shall be
sent to all interested parties as shown
by the record on appeal upon receipt of
the administrative record. Any objec-
tion 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 govern-
ing 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 deci-
sion, 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 hear-
ings shall be conducted by an adminis-
trative law judge of the Office of Hear-
ings and Appeals. The Board may, in
its discretion, grant oral argument be-
fore 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 au-
thority committed to the Bureau, and
the Board has not otherwise been per-
mitted to adjudicate the issue(s) pursu-
ant 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 As-
sistant Secretary—Indian Affairs for
further consideration.

§4.338 Submission by administrative
law judge of proposed findings, con-
clusions and recommended deci-
sion.

(a) When an evidentiary hearing pur-
suant to §4.337(a) of this part is con-
cluded, 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 ad-
ministrative law judge, shall be for-
warded to the Board.

(b) The administrative law judge
shall advise the parties at the conclu-
sion 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 re-
garding recommended decision by
administrative law judge.

Within 30 days after receipt of the
recommended decision of the adminis-
trative 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 ap-
peal proceedings, including the Board's
decision, shall be forwarded to the offi-
cial of the Bureau of Indian Affairs
whose decision was appealed for proper
disposition in accordance with rules

§4.350

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, administrative judges shall determine such heirs by applying inheritance laws in accordance with the White Earth Reservation Land 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 officer in charge of the White Earth Reservation Land Settlement Branch of the Minneapolis Area Office, Bureau of Indian Affairs, at Cass Lake, Minnesota.

(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 of the

43 CFR Subtitle A (10-1-94 Edition)

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]

§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:

(1) A copy of the death certificate if one exists. If there is no death certificate, then another form of official written evidence of the death such as a burial or transportation of remains permit, coroner's report, or church registry of death. Secondary forms of evidence of death such as an affidavit from someone with personal knowledge concerning the fact of death or an obituary or death notice from a newspaper may be used only in the absence of any official proof or evidence of death.

(2) Data for heirship finding and family history, certified by the Project Director. Such data shall contain:

(i) The facts and alleged facts of the decedent's marriages, separations and divorces, with copies of necessary supporting documents;

(ii) The names and last known addresses of probable heirs at law and other known parties in interest;

(iii) Information on whether the relationships of the probable heirs at law to the decedent arose by marriage, blood, or adoption.

(3) Known heirship determinations, including those recognized by the Act determining the heirs of relatives of

Office of the Secretary

the decedent, and as determined by courts of other states, by tribunals authorized in other countries.

(4) A report of the decedent, including the date of death, and an outline of such compensation real property original of the compensation ceased, citing all heirs at law, their and the amount contributed to each of

(5) A certification of the Project Director or his designee provided for the same were furnished after diligent search

[56 FR 61383, Dec. 3, 1991]

§4.352 Determination by administrative judge and

(a) Upon review by the Project Director, the administrative judge will determine if there are any facts that need to be

(b) If there are any facts requiring determination, the administrative judge will enter a determination of heirship in accordance with the inheritance laws in accordance with the Act. Such preliminary determination may be entered without a hearing when possible and when furnished and/or verified by the Project Director. Such preliminary determination shall include the names, birth dates, and addresses of the decedent, and shall state the fact that the decedent has no other heirs.

(1) Upon issuing a determination, the administrative judge shall issue a notice of determination. The administrative judge shall mail a copy of the determination, together with a copy of the preliminary determination, to the parties in interest, allowing forty days for the parties to show cause in writing why the determination should not be made. The administrative judge shall issue a final determination to be made in the same manner of such matter.

(2) The Project Director shall, within seven