



# United States Department of the Interior

## Bureau of Indian Affairs

Southern Plains Regional Office

P.O. Box 368

Anadarko, Oklahoma 73005

IN REPLY REFER TO:  
Branch of Trust Services

JAN 10 2018

### **CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

The Honorable John Barrett  
Chairman, Citizen Potawatomi Nation  
1601 South Gordon Cooper Drive  
Shawnee, Oklahoma 74801

Dear Chairman Barrett:

The Southern Plains Regional Office has reviewed and considered your “Fruit Tract” fee to trust application. You request approval of a conveyance to the United States of America in trust for the Citizen Potawatomi Nation (CPN) of Surface Rights Only in and to a tract of land described as Lots Fourteen (14) and Fifteen (15), in Block Seven (7), BROOKS ADDITION to the City of Shawnee, located in Pottawatomie County, Oklahoma, containing in all 0.149 acres, more or less, and being more particularly described in Certificate of Survey dated March 5, 2014, Revised December 14, 2017. A copy is herein provided.

Our review procedures in transactions of this type include satisfaction of the requirements stipulated in 25 Code of Federal Regulations, Part 151 – Land Acquisitions, together with Applicable Statutes, Departmental Policies, Rules or Regulations, including processes specified in Fee to Trust Handbook, Release #16-47. Version IV (rev. 1) Issued: 6/28/16, Replaces: Version IV, Issued: 5/16/16. The assessments and considerations in the following documentation are provided in justification of our decision in this matter.

### **25 CFR 151.3 (a) (1) (3)**

This property is located within the boundaries of the Citizen Potawatomi Nation Reservation, being that area of land constituting the former reservation of the tribe in the State of Oklahoma as defined by the Secretary of the Interior. We have determined this acquisition is necessary to enhance the tribal housing programs. There is no anticipated change in land use for the subject tract. It is located contiguous to other tribal land(s) of the same nature and character; furthers land consolidation plans; and facilitates tribal self-determination. Also, it provides opportunities for employment, training and needed wages for tribal members and others in the local workforce while raising their current standard of living.

**25 CFR 151.10:**

The following analysis is provided in support of our decision regarding the subject request for acquisition of land to trust status:

- (a) The existence of statutory authority for this transaction is the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 465), the Indian Reorganization Act. In *Carcieri v. Salazar*, 555 U.S. 379 (2009), the United States Supreme Court held that the Secretary's authority to take land into trust for an Indian tribe under Section 465 of the Indian Reorganization Act, 48 Stat. 984, ("IRA"), extends only to those tribes that were "under federal jurisdiction" when the IRA was enacted on June 18, 1934. Section 473 of the IRA, listed certain "Indian tribes" in Oklahoma to which certain sections of the IRA (*not* including Section 465) would be inapplicable. With the advice of the Tulsa Field Solicitor's Office we have determined that the Congress necessarily recognized the existence of certain tribes when they were specifically listed in Section 473 of the IRA itself. The Pottawatomie, aka Citizen Potawatomi Nation, was specifically listed in Section 473 of the IRA. Accordingly, we have determined that the Secretary is authorized to take land into trust for the Citizen Potawatomi Nation pursuant to Section 465 of the IRA;
- (b) The need for the acquisition is to facilitate tribal self-determination and enhance economic development by adding property(s) to the tribal housing program(s), which provides employment opportunities for tribal employees as well as members of the local community who provide needed services;
- (c) The purpose for which the land will be used is to produce more opportunities for a number of tribal members to have employment opportunities which enhance the quality of life for individuals and the Tribe. In addition, they can remain close to their tribal home, and participate in tribal activities, which is more difficult to access if tribal members are forced to seek employment in faraway places. Due to an increase in tribal population and current downturn in the job market, additional lands are needed to expand entrepreneurship and employment opportunities. Absent such acquisitions, the tribe will be limited in its ability to achieve needed economic growth;
- (d) Does not apply to tribal land;
- (e) The removal of the land from the tax rolls will not result in a negative financial impact on the State and its political subdivisions. One measure of the tribe's compensation for loss of tax revenue is through their contribution to the state and local governments of generous donations, services, and sponsorship of many state and community organizations and charitable events. In addition, tribal revenue disbursed as earnings from job programs, or as grants from social programs to tribal members, contributes heavily to the state and local economy in the form of property and sales tax. The 2017 ad valorem tax assessment was \$280.00.

According to an Oklahoma State University, Spears School of Business, Center for Applied Economic Research, *Economic Impact Analysis of Citizen Potawatomi Nation Operations: 2009*, "The contributions analysis performed suggests the CPN activities sustain 2,963 full-time equivalent jobs, generating \$124 million in payroll income, and over \$416 million in Oklahoma production of goods and services." In 2008, the Nation's annual economic impact was \$394 million. In 2009, the Nation's annual economic impact was \$389 million. Clearly, the state, counties, local communities, cities and residents benefit from the lands' proximity to the Citizen Potawatomi Nation, outweighing any marginal loss or expense they might incur as a result of a minimal reduction in tax revenue;

- (f) No jurisdictional problem(s) or potential conflicts of land use are anticipated, and there will be no change in land use. The property is within the reservation boundaries of the Citizen Potawatomi Nation, and is owned by the tribe in fee. The tribe has law enforcement authority on the reservation, and has a trained law division, a drug court, a district court, and a supreme court all having legal jurisdiction over trust land. Tribal police are certified to enforce federal and tribal laws on trust lands and are cross-deputized with the State of Oklahoma. The tribe also has a prosecuting attorney who represents tribal interests in matters of civil, criminal, and juvenile law, and is a public defender. Furthermore, the tribe has an agreement in place with the County Sheriff to hold those charged with a crime at the local county jail until a proper hearing and trial is scheduled. As with all tribal and trust land, the tribe relies on local and county emergency services to respond to threats of life and property, since emergency communication systems are already in place. Local and tribal police have worked hand in hand to mitigate emergency situations for well over a decade. Currently, tribal police provide law enforcement for the Citizen Potawatomi Nation Housing Authority and the entire tribal complex, including tribal administration, and other enterprises which are located in the cities of Shawnee and Tecumseh;
- (g) The Bureau of Indian Affairs and Citizen Potawatomi Nation are equipped to handle the additional responsibilities resulting from the acquisition of the land in trust status. Presently, the tribe is responsibly and professionally managing operations upon its tribal lands, while administrative and land management trust services are provided by the tribal realty services division, in conjunction with the Bureau of Indian Affairs. The services were compacted in 1998;
- (h) The Bureau of Indian Affairs prior to approval of this transaction shall rely upon the required Environmental Compliance Review Memorandum (ECRM) to show compliance with 516 DM 6, appendix 4, National Environmental Policy Act, Revised Implementing Procedures, and 602 DM 2, Land Acquisitions: Hazardous Substances Determinations.

Therefore, based upon a comprehensive review and consideration of all applicable information of record in this transaction, the Regional Director, Bureau of Indian Affairs, Southern Plains

Regional Office, or his designee, hereby issues their notice of intent to accept title to the subject property in the name of The United States of America in trust for the Citizen Potawatomi Nation.

This decision may be appealed to the Interior Board of Indian Appeals, 801 North Quincy Street, Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed). Your Notice of Appeal to the Board must be signed by you or your attorney and must be mailed within thirty (30) days of the date you receive this decision. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. You must send copies of your Notice of Appeal to (1) the Assistant Secretary – Indian Affairs, 4140 MIB, U.S. Department of the Interior, 18<sup>th</sup> and C Streets, N.W. Washington D.C. 20240, (2) each interested party known to you, and (3) this office. Your Notice of Appeal sent to the Board of Indian Appeals must certify that you sent copies to these parties. If you file a Notice of Appeal, the Board of Indian Appeals will notify you of further appeal procedures.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing of the Notice of Appeal

I hereby certify that I have mailed a copy of this letter to the enclosed list of all interested parties whose names and addresses are known to me.

For further information, please contact the Division of Trust Services, Sandra Ray, Realty Officer, 405-247-1559.

Sincerely,



**ACTING** Regional Director

Enclosures (2)