



# United States Department of the Interior

## BUREAU OF INDIAN AFFAIRS

Southern Plains Regional Office

Post Office Box 368

Anadarko, Oklahoma 73005

OCT - 3 2019

### 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 "Wallach 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 in the Southeast Quarter of the Southwest Quarter (SE1/4-SW1/4) of Section Thirty-one (31), Township Ten (10) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma, containing 0.207 acres, more or less, and being more particularly described in Certificate of Survey dated December 14, 2004, Revised March 12, 2013, Revised February 5 2014. A copy is enclosed herein.

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. 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 Indian 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. It also 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 *Carciere 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 lands;
- (e) The removal of 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 2018 ad valorem tax assessment was \$1,266.00. According to 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 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. We received a comment from General Counsel, Office of the Governor, State of Oklahoma, which calls upon the tribe(s) to consider the Governor's thoughts regarding Fee to Trust applications when making a determination. The Governor's thoughts are that it is appropriate for fee land to be taken into trust for Indian Tribes when doing so will have a material and substantial impact on tribal self-governance and economic development that would otherwise be unobtainable if the property were to remain in fee status. After dutiful consideration, we have determined the commenter has not provided any compelling evidence that the impact of this action would be immaterial or insubstantial. Considering all of the factors above, it is determined that taking the property into trust does have a positive material and substantial impact on tribal self-governance and economic development that would otherwise be unobtainable if the property were to remain in fee status;

- (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 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, which 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 the 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 decision 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 C.F.R. 4.310-4.340. Your Notice of Appeal to the Board must be signed by you or your attorney and **must be either postmarked and mailed (if you use mail) or delivered (if you use another means of physical delivery, such as FedEx or UPS) to the IBIA within thirty 30 days of the date you receive this decision.** The regulations do not authorize filings by facsimile/fax or by electronic means. 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, U.S. Department of the Interior, MS-4141 MIB, 1849 C Street N.W., Washington, D.C. 20240; (2) each interested party known to you; and (3) the Regional Director. Your Notice of Appeal sent to the IBIA must include a statement certifying that you have sent copies to these officials and interested parties and should identify them by names or titles and addresses.

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, George Beatty, Acting, Realty Officer, (405)-247-1559.

Sincerely,

  
Regional Director

**ACTING**

LIST OF INTERESTED PARTIES

The Honorable Kevin Stitt  
Governor, State of Oklahoma  
State Capitol Building  
2300 North Lincoln Boulevard  
Room 212  
Oklahoma City, OK 73105

Board of County Commissioners  
Pottawatomie County, Oklahoma  
14101 Acme Road  
Shawnee, Oklahoma 74804

Oklahoma Tax Commission  
Thomas Kemp Jr., Chairman  
2501 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73194

Office of the County Assessor  
Pottawatomie County, Oklahoma  
County Courthouse  
325 North Broadway, Suite 204  
Shawnee, Oklahoma 74801