



LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

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February 27, 2018

To The Department of the Interior,

This correspondence is in regards to "Fee to Trust (25 CFR 151) and the Department's proposed revision to those regulations. The Department has held listening sessions and solicited input from Tribal Nations across the United States. The following are comments from the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin.

Question #1 What should the objective of the land-into-trust program be? What should the Department be working to accomplish?

The Department first and foremost should continue to fulfill its trust responsibilities to individual Native Americans and Tribes nationwide. These rights were guaranteed to the Lac du Flambeau Band through the Treaty of 1854, establishing our homeland for our people and for future generations. Throughout the decades our reservation has been allotted and lands were sold to non-tribal members further eroding our ancestral homelands. This has resulted in significant acreage in fee status within the exterior borders of our reservation. Throughout the years our Tribe has committed itself to the repurchase of these properties to once again be included in our tribal lands and be given protected trust status. To do so, requires enormous resources and sacrifice on our part in the purchase and processing of these lands return to trust status. The United States Government through the Department of Interior is charged with the fiduciary responsibility of processing these fee lands back into trust. The DOI's objective should be to **fully** recommit to this trust responsibility guaranteed by our Treaties and support our Tribe's and other Tribe's efforts to ensure that this promise not only is **upheld** but the Department should consider expansion of its fee to trust duties of the highest priority.

Question #2 How effectively does the Department address on-reservation land into trust applications.

The Department through the Bureau of Indian Affairs can much more adequately address on reservation fee to trust applications and must. However, this inadequacy is primarily due to a gross lack of funding to the Bureau Area and Regional Office levels along with lack of funding to individual Tribes processing fee to trust applications.

"Protecting our Land Base"

Question #3 Under what circumstances should the Department approve or disapprove an off reservation trust application?

This is an area that should be considered on a case by case basis as much as feasibly possible. Each nation has its own and common goals with other Tribes. Those needs should be determined and prioritized by the individual tribal nations. In regards to off reservation fee to trust, consultation should be by the Department of Interior with the requesting Tribe, neighboring Tribes and other entities, if necessary. The highest priority should be to assist Tribal governments in providing and promoting a strong, stable and self-sufficient economic base for their members now and for future generations to come.

Question #4 What criteria should the Department consider when approving or disapproving an off reservation trust application?

Please refer to above Question # 3 response.

Question #5 Should different criteria/procedures be used in processing off-reservation applications based on economic vs. non-economic purposes, gaming vs. non-gaming, and no change in land use purposes?

The Lac du Flambeau Band and other Tribal nations are responsible for determining and meeting their membership's socio, economic, cultural, housing and educational needs, etc... as best we can with the resources we have available. With increased membership and dwindling resources at the tribal, local, state and nationwide level, we have a responsibility to this generation and our future generations to provide those needs wherever that may be. Should off reservation economic/non-economic, gaming vs non-gaming expansion be considered and pursued to meet our needs, we would hope that the federal government would support tribal nations in their off-reservation endeavors in whatever each Tribe determines those needs to be.

Question #6 What are the advantages/disadvantages of operating on land that is in trust versus land that is owned in fee?

The primary advantage would be that lands once placed in trust would now have a non-taxable and protected trust status. The Lac du Flambeau Band has paid hundreds of thousands in taxes throughout the decades to our local and county governments. These funds could be used for other purposes within our Tribal community and addressing the needs of our tribal members. Our Tribe should also have the right to determine how our very limited monetary resources are spent due to our sovereign and jurisdictional status.

Question #7 Should pending applications be subject to new revisions if/when they are finalized.

Only if the revisions are conducive to a Tribes application in a more efficient and effective process for the fee to trust acquisition than it is at present.

Question #8 How should the Department recognize and balance the concerns of state and local jurisdictions? What weight should the Department give to public comments?

The Department needs to first and foremost recognize that fee to trust acquisition is a fiduciary responsibility on behalf of the federal governments trust responsibilities guaranteed by The Treaty of 1854 for the Lac du Flambeau Band. The relationship between our Tribe and that of the United States is that of a government to government. State and local governments may have concerns but those concerns should be given less weight in the Tribe's Fee to Trust application. Public comment is required under Fee to Trust Regulations (25 CFR 151), however that input should receive the least prioritized consideration.

Question #9 Do Memorandums of Understanding (MOUs) facilitate improved tribal/state/local relationships in off-reservation economic developments and should that be reflected in the off-reservation application process?

Memorandums of Understanding do indeed facilitate the fee to trust application and serve to promote strong, positive and cooperative relationships between the entities. They should be considered as a highly motivating factor in the approval of the land acquisition to trust status for the Tribes.

Question #10 What recommendations would you make to streamline/improve the land into trust program?

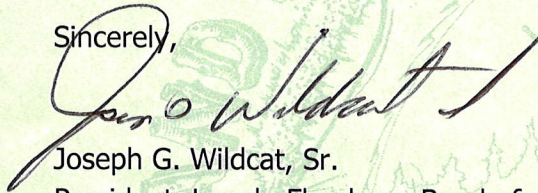
The recommendation to continue and the need to significantly *increase* funding levels to the Bureau of Indian Agency as well as the Area Regional staff in the fee to trust and environmental areas. This funding needs to also be in full combination with **full** funding to the Tribes to sustain and increase their realty staff. These efforts should be combined with additional and ongoing training to Tribal and Bureau personnel in order to promote a more efficient and effective fee to trust process. Staff shortages need to be addressed at the Bureau of Indian Affairs Agency and Regional level. The lack of having a Field Solicitor at the Area Region to review and approve preliminary and final title opinions greatly hinders the fee to trust process and causes undue delays and hardships on the Tribes submitting their applications.

The above comments are not only areas of concern but we believe opportunities for improvement to the federal fee to trust process.

Our Tribal Constitution states pursuant to "Article VI, Section 1(a), the Tribal Council is granted the power and duty to regulate the use and disposition of tribal property, to protect and preserve tribal property, wildlife and natural resources of the Tribe, to cultivate Indian crafts and culture, to administer charity, and to protect the health, security and general welfare of the Tribe". The fee to trust process is a critical part of our Tribe continuing to abide by our Constitution and our responsibilities to our current and future generations. The federal government through the Department of Interior Bureau of Indian Affairs is an integral partner in the attainment of these goals and the fulfillment of their trust responsibilities.

The Lac du Flambeau Band of Lake Superior Chippewa Indians welcomes meaningful consultation on this very important issue not only for our Tribe but for all Tribal Nations across the United States. We thank you for your consideration.

Sincerely,



Joseph G. Wildcat, Sr.
President, Lac du Flambeau Band of
Lake Superior Chippewa Indians

Cc: Tribal Council
Zoya A. Mayo, Director of Land Management
File

