



OFFICE OF THE GOVERNOR

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BILL ANOATUBBY
GOVERNOR

June 19, 2018

Ms. Elizabeth Appel
U.S. Department of the Interior
Office of Regulatory Affairs & Collaborative Action
1849 C Street N.W., Mail Stop 4660-MIB
Washington, D.C. 20240

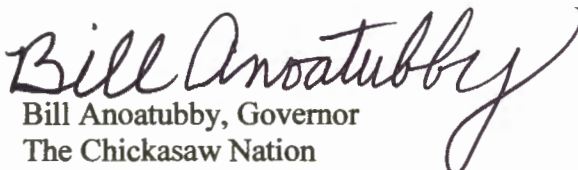
Dear Ms. Appel:

We are pleased to submit the enclosed comments in response to the “Dear Tribal Leader” letter of May 1, 2018 issued by Principal Deputy Assistant Secretary John Tahsuda. This mentioned letter sought tribal comments regarding proposed changes to the fee-to-trust regulations at 25 CFR Part 151.

We have long enjoyed a productive government-to-government relationship with the Bureau of Indian Affairs regarding the acquisition of land into trust status. We welcome any administrative effort that streamlines the current process and further supports tribal sovereignty and self-governance. We look forward to working with the Department of the Interior on this important issue as it will impact the governmental, economic and cultural future of the Chickasaw Nation.

If you have any questions, please contact Mrs. Jennie Ware-Mosely, director of real estate services, at (580) 421-8800 or by email at jennie.mosely@chickasaw.net.

Sincerely,


Bill Anoatubby, Governor
The Chickasaw Nation

Enclosure

**COMMENTS OF THE CHICKASAW NATION IN RESPONSE
TO THE “DEAR TRIBAL LEADER” LETTER OF MAY 1, 2018
REGARDING PROPOSED CHANGES TO THE
FEE-TO-TRUST REGULATIONS AT 25 CFR PART 151**

The acquisition of land into trust is an essential tool for all Indian tribes. The ability to reacquire and restore lost homelands helps preserve tribal culture and tribal ways of life for future generations. Trust land acquisition also allows Indian tribes to engage in economic development and apply the principles of self-governance to enhance the overall quality of life of tribal citizens.

In recent years, Indian tribes have watched cautiously as some members of Congress have questioned whether or not there should be rigid statutory conditions imposed on the Secretary of the Interior when placing land into trust status. It is our sincere hope that the Department of the Interior will continue to recognize, support and respect tribal sovereignty as it pertains to the acquisition of trust lands and other issues that directly impact Indian country.

The current process for taking land into trust is already time consuming and expensive. Adding additional threshold criteria and layers to the process will likely result in further delays and force Indian tribes to incur more costs and fees. Several revisions to the fee-to-trust regulations have occurred since 1980. In addition, the regulations have been interpreted differently from administration to administration. Now is the opportune time for the Department of the Interior and the Indian tribes to work together in a collaborative effort to find solutions and identify process and resource deficiencies in the fee-to-trust process.

It is worthy to note that on April 6, 2017 the Department of the Interior implemented a new review process for fee-to-trust applications. This decision was made without tribal input or consultation. Under the new process, off-reservation acquisitions and off-reservation decisions involving gaming are now reviewed and approved at the central office level in Washington, D.C. This new process will inevitably lead to delays. The Chickasaw Nation would support rescinding this departmental action. At the very least, the Bureau of Indian Affairs (BIA) Regional Director should have the authority to review and approve all non-gaming, off-reservation applications. We believe this will reduce the length of time between application submission and final consideration.

The Chickasaw Nation questions the need to reinstate the 30 day waiting period between the time an official decision is issued and when land is taken into trust. This requirement equates to another delay in the overall process. Statistics show that a large majority of fee-to-trust acquisitions go unchallenged and they are

supported by local and state governments. This includes land placed into trust for gaming purposes which represent a very small percentage of all acquisitions. We respectfully remind the Department of the Interior the trust responsibility applies only to federally-recognized Indian tribes, not private entities or subdivision governments.

The Chickasaw Nation makes the following recommendations to the Department of the Interior regarding the fee-to-trust acquisition process:

Recommendation 1: The Department of the Interior should develop categorical exclusions for fee-to-trust applications to help facilitate the National Environmental Policy Act (NEPA) process. These exclusions should be developed in meaningful consultation with Indian tribes.

Recommendation 2: The Office of the Field Solicitor and the Chickasaw Nation should develop a trust asset management plan to address the delayed return of preliminary title opinions (PTOs) and final title opinions (FTOs). This joint partnership would provide for efficient title review and ease the burdens of the Field Solicitor.

In conclusion, the Chickasaw Nation supports any administrative effort that will streamline the fee-to-trust process. We cannot support any changes to 25 CFR Part 151 that will create procedural hurdles and make land acquisitions more difficult. Any such adverse changes would oppose the congressional intent set forth in Section 5 of the Indian Reorganization Act of 1934 nor comply with the governing principles of tribal sovereignty and self-governance. The intentions of Congress to further expand tribal sovereignty and self-governance should be upheld and further supported by the Department of the Interior at every opportunity.