



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
TRUXTON CANON AGENCY

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IN REPLY REFER TO:  
Office of the Superintendent

**JAN 07 2009**

## **United States Department of the Interior Bureau of Indian Affairs**

### **Finding of No Significant Impact (FONSI) Tonto Apache Fee-to-Trust Transfer Tonto Apache Tribe, Gila County, Arizona**

#### **SUMMARY**

The Secretary of the Interior, through the Bureau of Indian Affairs (BIA), is considering the approval of the transfer of title of Tonto Apache Tribe (Tribe) owned fee land to the United States. The BIA's approval of the transfer constitutes a federal action, requiring preparation of an Environmental Assessment (EA) in compliance with the National Environmental Policy Act (NEPA), as amended. An EA for the exchange of 273 acres of lands between the Tribe and United States Forest Service (USFS) was approved in 2006 and is available through the Tonto National Forest. In addition to the 273-acres, a 20-acre fee status parcel owned by the Tribe is being considered for trust transfer. Total fee-to-trust transfer for consideration is 293-acres.

#### **PURPOSE AND NEED**

The Tribe has recently acquired approximately 273 acres of land adjacent to their existing Reservation through a land exchange with the USFS in order to increase their very small Reservation land base of approximately 85 acres. This property, along with an existing 20-acre parcel adjacent to the Reservation, which is also held in fee simple status by the Tribe, is being considered for fee-to-trust transfer. The Proposed Action is to increase the Reservation from 85 acres to approximately 378 acres. The Reservation is located along the southern boundary of the Town of Payson (Town).

To provide for the long-term benefit of the Tribe and Tribal members and to consolidate its fee parcel holdings adjacent to their existing Reservation, the Tribe is requesting that title to the 293 acres held in simple fee status by the Tribe be transferred to the United States, and be held in trust for the Tribe. Land may be placed into trust status when the property is located within the exterior boundary of the Tribe's reservation or adjacent thereto. This allows the property in question to be held in perpetuity by the United States for the beneficial use of the Tribe.

The parcels held in fee are eligible for transfer into trust to the United States and are within the aboriginal territory of the Tribe. The Tribe was federally recognized and 85 land acres were set apart for the Tonto Apache Reservation on October 6, 1972 (PL 92-470, 86 Stat. 783). The 85 acres were officially designated on May 31, 1974 under Public Land Order 5422. The Tribe is a federally recognized Indian Tribe pursuant to the Indian Reorganization Act of 1934 (48 Stat. 984).

### **ALTERNATIVES CONSIDERED**

The project as described in the EA is the preferred alternative. Other alternatives considered, but eliminated from further consideration, included additional lands to be transferred in trust (e.g., other non-contiguous parcels owned by the Tribe), and placement of deed restrictions to limit future development. These alternatives were eliminated from further consideration because no other fee status parcels or alternate land uses would meet the project purpose and need to provide for the Tonto Apache Tribe in its permanent Tribal homeland. The No Action Alternative was also considered.

### **ENVIRONMENTAL IMPACTS**

The EA documents the planning process and describes the comprehensive analysis of the impacts of the project, not only on the fee-to-trust transfer, but also on the surrounding community. No unmitigated adverse environmental impacts are indicated by the EA.

There are no unmitigated impacts to public health and safety or to historic properties listed on the National Register of Historic Places. There are no unmitigated adverse impacts to endangered species or critical habitat. No unmitigated adverse impacts will occur to air quality, or water quality, or to floodplains, which were evaluated in accordance with Executive Order 11988. There are no wetlands on the parcels and no soil or mineral resources would be adversely affected.

Community infrastructure would not be adversely affected. No unmitigated adverse effects to wastewater treatment facilities, or solid waste disposal facilities will occur. Social services would not be adversely affected. There are no unmitigated impacts to traffic or transportation facilities. There are no unmitigated cumulative or indirect impacts to community infrastructure. Compliance with Executive Order 12898, Environmental Justice, and Departmental Manual 512 DM 2, Departmental Responsibilities for Indian Trust Resources, have been identified and addressed.

### **MITIGATION**

#### **Cultural Resources**

There will be no identified adverse effects to cultural or historic resources. Should any unrecorded cultural resources sites be encountered during ground disturbing activities, work will stop in the area of discovery and stipulations of 36 C.F.R. § 800.11 will be followed. The BIA Western Regional Archaeologist and Tribe shall be contacted immediately. See Section 4.5.1 of the Final EA concerning compliance with the National Historic Preservation Act.

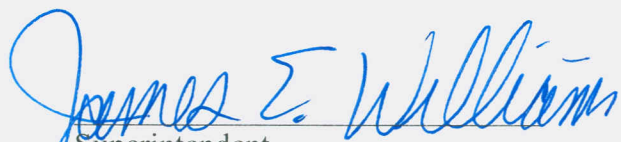
### **Biological Resources**

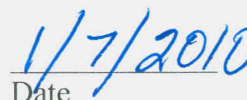
There will be no identified adverse effects to biological resources. See Appendix B of the Final EA concerning compliance with the Endangered Species Act.

### **FINDING OF NO SIGNIFICANT IMPACT**

The FONSI is a finding on environmental effects, not a decision to proceed with an action, therefore cannot be appealed. 25 C.F.R. Part 2.7 requires a 30-day appeal period after the decision to proceed with the action is made before the action may be implemented. Appeal information will be made publically available when the decision to proceed is made.

Based on the attached final Environmental Assessment (EA) for the Fee-to-Trust Transfer project for a proposal to transfer 293-acres of fee lands to the Tonto Apache Tribe to the United States to be held in trust for the Tribe in Gila County, Arizona, I have determined that by implementation of the agency-proposed action and environmental mitigation measures as specified in the EA, the proposed fee-to-trust transfer will have no significant impact on the quality of the human environment. In accordance with Section 102 (2) (c)) of the National Environmental Policy Act of 1969, as amended, an Environmental Impact Statement will not be required.

  
Superintendent  
Truxton Canon Agency  
Bureau of Indian Affairs  
U.S. Department of the Interior

  
Date