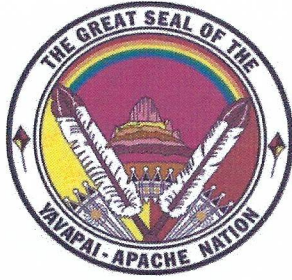


YAVAPAI-APACHE NATION



Executive Office

Chairwoman Jane Russell-Winiecki

Vice Chairman Lawrence Jackson, Sr.

2400 West Datsi Street, Camp Verde, AZ 86322

Phone (928)567-1021

Fax (928)567-3994

June 28, 2018

Via Email Only To: consultation@bia.gov

John Tahsuda, Principal Deputy Secretary
Bureau of Indian Affairs
United States Department of Interior
1849 C Street, N.W. MS-4606
Washington, D.C. 20240

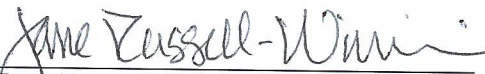
Re: Comments on Potential Revision of 25 CFR Part 151 Fee to Trust Regulations

Dear Deputy Assistant Secretary Tahsuda:

The attached comments to the Secretary's possible revisions to the 25 CFR Part 151, Fee to Trust Regulations, are submitted on behalf of the Yavapai-Apache Nation of the Camp Verde Indian Reservation, Camp Verde, Arizona. The Nation urges the Secretary to give these comments, along with the comments of all other Indian Nations, the most careful consideration.

Sincerely,

YAVAPAI-APACHE NATION


Jane Russell-Winiecki
Chairwoman

**Comments of the Yavapai-Apache Nation of the Camp Verde Indian Reservation,
Camp Verde Arizona
In Re Possible Revisions to the Federal Land Acquisitions Regulations
25 CFR Part 151**

**Submitted by Jane Russell-Winiecki, Chairwoman, Yavapai-Apache Nation
June 28, 2018
To: consultation @bia.gov**

“American Indians hold their lands – places-as having the highest possible meaning, and all their statements are made with this reference point in mind.” Vine Deloria, Jr., God is Red.

“Where dogma lies at the heart of Western religions, Native American faith is inextricably bound to the use of land. The site-specific nature of Indian religious practice derives from the Native American perception that land is itself a sacred, living being.” Justice Brennan, Dissenting opinion in Lyng v. Northwest Indian Cemetery Protective Association, 485 U.S. 439 (1988).

General Comments

The Yavapai-Apache Nation (“Nation”) appreciates the opportunity to comment on Interior’s possible revisions to the land into trust regulations, 25 CFR Part 151. The Nation previously provided comments during the listening session that occurred in Phoenix, on February 20, 2018. A copy of the Nation’s February comments is attached to this document and incorporated herein by reference.

In general, the Nation believes that the current regulations adequately address the full range of issues that should be considered in evaluating a trust application. While administration of the trust process could be made more efficient and expeditious, the current regulations provide Interior and BIA with all the administrative tools needed to fully address and act on trust applications. The Nation believes that Interior should withdraw its consideration of possible revisions to Part 151 and urges this be done immediately. Should Interior decide to continue its consideration of possible revisions, the Nation wishes to make clear that it opposes any changes to the regulations that would produce any of the following negative consequences:

- increase already burdensome and expensive application requirements on applicants or increase the time it takes to process an application to final determination;
- abrogate the Secretary’s legislative responsibility to acquire land in trust for the tribes by providing increased deference, or an implicit veto power, to state and local governments during the application process;
- invite additional legal/administrative challenges to a final determination;
- diminish the Secretary of Interior’s (the “Secretary”) statutory/regulatory authority and responsibility to take land into trust for Indians; or

- set-up any mechanism or artifice for frustrating the land into trust process.

Interior can avoid all such negative effects on the tribes by applying the following points and principles as a guide to its consideration of potential regulatory changes:

1. Land is at the heart of what it means to be an Indian person and an Indian Tribe. Because of Indian people's long cultural, traditional and religious connection to the land, the land is a very real part of the individual and community identity. *"As Apache men and women...acquire knowledge of their natural surroundings, commit it to permanent memory, and apply it productively to the workings of their minds – they show by their actions that their surroundings live in them. Like their ancestors before them, they display by word and deed that beyond the visible reality of place lies a moral reality which they themselves have come to embody."* Keith H. Basso, Anthropologist, *Wisdom Sits in Places: Landscape and Language among the Western Apache*, University of New Mexico Press, Albuquerque, New Mexico, (1996).
2. All Indian Nations across the country lost some or all of their lands because of America's past expansionist policies and military conquest of the continent, together with the failed assimilationist policies of the United States that followed.
3. The negative cultural, social, and economic impacts to Indian Nations and individuals resulting from the historic loss of Indian land, and accompanying federal efforts to stamp out tribal cultures, are well documented. See for example the Merriam Report of 1928, Institute for Government Research, *The Problem of Indian Administration*, Lewis Merriam, ed., John Hopkins Press, (1928).
4. To address the systemic problems caused by Indian land loss, Congress, through the Indian Reorganization Act, 25 USC §461, et. seq., ("IRA") and other statutes, has authorized the Secretary to acquire lands in trust for the tribes as one way of remediating the extremely negative consequences of historic federally facilitated Indian land losses.
5. All Indian Nations across the country are still recovering from the legacy of destruction wrought by Indian land losses. Some have made more progress than others. There is still much work to be done. Land acquisitions in trust are essential to that recovery.
6. The Secretary's statutory authority and responsibility to acquire land in trust for the Indian Nations requires the Secretary to put the interest of the tribes in recovering their lands, cultures and economies at the head of any list of considerations in evaluating land into trust applications. While the Secretary may validly examine the relationship between the proposed trust taking and the interest of state and local governments, the Secretary has no trust responsibility to state and local governments, whose interest are in many cases directly hostile to tribal interest. In some instances, these hostilities are direct holdovers from the original hostilities that initiated the Indian land losses in the first instance during the long history of non-Indian migration across North America. Two wrongs (repeating the errors of the past) do not make a right, they only make the original wrong worse.

If the Secretary will look to these points and principles as a compass when considering how to proceed on the question of revisions to Part 151, as well as in any future consideration of applications for trust status, the Secretary will fully comprehend the imperative of abandoning further consideration of the proposed revisions and will embrace existing statutory authority and responsibility - both legal and moral - to assist the tribes in reacquiring areas of their original homelands needed to fulfill the inherent purposes of those homelands. This is not too much to ask of the United States.

A Brief History of Yavapai-Apache Land Loss

The story of the Yavapai-Apache Nation's loss of its lands is representative of similar historic events that were repeated across North America wherever Indian people lived. Prior to the arrival of the Non-Indians to the southwest, the Yavapai and Apache people lived in and exercised sovereignty over an extensive territory in what is now Arizona. Then, just as it is now, the land was the foundation of the cultural, religious, social, political and economic life of the Nation and its people. Their land was the source of both their physical and spiritual sustenance. Places throughout Yavapai and Apache territory bore (and still do) the names given to those places by the people who lived on, tended to, and drew their life from the land. Children were born, and families raised on the land and when their lives had been fulfilled in old age, they returned to the land.

As with all tribes across North America, the coming of the non-Indian to Yavapai and Apache lands brought loss of lands and destruction of culture. When the spiritual connection between the people and their land is broken, the loss of culture and its clarity of individual and community purpose follows closely behind. In the Verde River Valley of Central Arizona, the military forts of the United States military laid the foundation for the arrival of the farmers, ranchers and miners of America's westward expansion. What was once the sovereign homeland of the Yavapai and Apache, now became an ever-shrinking stockade, the boundaries of which were patrolled by soldiers of the United States, and the remaining land looked upon by settlers as an economic asset to be taken.

By 1871, United States' President U.S. Grant had set aside, through executive order, a 575,000-acre reservation for the Yavapai and Apache people. With the Verde River as its central feature, the reservation stretched throughout the Verde Valley and was to be the permanent home of the Yavapai and Apache. This permanency quickly gave way to the desires of the local non-Indians for the Nation's remaining lands and resources. In 1875, bowing to non-Indian political pressure, President Grant ordered that all Yavapai and Apache people on the reservation be rounded up and marched in the dead of winter some 200 miles to the San Carlos Reservation. President Grant then revoked his executive order and dissolved the reservation. The Nation's lands were opened to non-Indian settlement. In this way the Yavapai and Apache of the Verde Valley of Arizona, lost their land and all that they had. In being forced from their homeland they

took only what they could carry in their arms and on their backs. What was left of the Nation at that point was the lives of those who survived the forced roundup and march to San Carlos and the memories of the life they once had in the Verde Valley; held together by the bonds of family and the hope that they might someday be allowed to return to their home.

Recovery Through Land Acquisitions

In losing their land, the lives of the Yavapai and Apache people were reduced by the United States to the lowest possible point of human existence – day to day survival and an uncertain future took the place of their prior peace and prosperity. By the early 1900's the yearning to return to their Verde valley homes was irresistible for the Yavapai-Apache people. Returning to the valley over time in small family groups, the people found their lands fully occupied and "owned" by the non-Indian settlers who had originally called for their removal. In 1909 the United States helped the Nation begin its long road to recovery with the acquisition in trust of an 18-acre parcel. In the 100-plus years since they began their return to the Verde Valley, the Yavapai-Apache people, with the help of the United States, have managed to cobble together a small reservation of just over 1,800 acres, a small shadow of the 575,000 acres of their 1871 reservation and a small fraction of their aboriginal homeland. While progress has been made by the Nation, the Nation's need for additional lands for housing, education, economic development, cultural resources and all other homeland purposes remains unfulfilled. The fee to trust provisions of Part 151 will play a key role in full development of the Nation's economy and self-determination.

The extreme cultural, religious, social, political and economic harm done to the Yavapai-Apache people by the complete loss of their homeland at the hands of the United States in the 1870's was immense. That loss and its traumatic harm reverberates down through time from its inception to the present day. The recovery from that loss is slow, but ongoing. This promise of eventual recovery is why the land into trust program is so vitally important to the Yavapai-Apache Nation and to all other Indian Nations who experienced similar land loss. The original harm cannot be undone, but it can be mitigated. The Land into trust program is a central component of Indian Country recovery and future prosperity. With these thoughts in mind, the Yavapai-Apache Nation offers the United States its comments on the Secretary's potential changes to the land into trust regulations.

Response to Interior's Ten Consultation Questions

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

The objective of the land into trust regulations is to facilitate the Secretary's implementation of the authority delegated to the Secretary by congress under Section 5 of the Indian Reorganization Act, and other statutes, to acquire in trust

lands that the tribes identify as necessary to restoration of their historic homelands and for their use in developing their local economies, providing land for housing, open space, recreation, cultural resources, education, religious devotion, and the broad range of infrastructure needed for the full exercise of tribal sovereignty and self-determination. The Secretary should be working to assist tribes in developing and strengthening the self-sustaining economic and social institutions needed to realize the full cultural, social, and economic potential of the tribes and their citizens. The importance of the fee to trust program to Indian Nations is immense and cannot be overstated.

2. *How effectively does the Department address on-reservation land-into-trust applications?*

The review process suffers from a certain amount of bureaucratic drag that lengthens the review process beyond what it reasonably should be. The degree of effective implementation varies from region to region, both within the administrative offices of the BIA, as well as the within the solicitors' offices where legal review and required legal opinions are produced. Greater agency wide uniformity in application processing could be achieved by applying across the board standards to reviews and implementing training programs that get everyone assigned to processing trust applications on the same streamlined page.

3. *Under what circumstances should the Department approve or disapprove an off-reservation trust application?*

Section 5 of the Indian Reorganization Act, 25 USC §465, authorizes the Secretary to acquire lands and all interest in lands "within or without existing reservations ... for the purpose of providing lands for Indians." The Secretary should process trust applications in the same manner whether the land is located within or outside of the applying tribe's reservation boundaries. Any issues concerning the acquired lands' use for gaming purposes can be left to the considerations specified in the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq., the statutory place where such considerations belong. For all other purposes, the Secretary should defer to the tribe's sovereign determination that the additional land is necessary to accomplishing the overall broad purposes of the reservation as a permanent, economically viable homeland. There is no single approach that will fit the circumstances of all tribes. There are situations where a reservation community is so geographically isolated from markets that no amount of on-reservation economic development will lead to a full measure of economic recovery and prosperity for that tribe. Under such circumstances, the acquisition of land off-reservation may be the only solution. In almost all situations it will likely be the case that even "off-

reservation” acquisitions are within the boundaries of the Tribe’s historic aboriginal homeland, or the boundaries of a reservation that has undergone complete revocation as in the case of the Yavapai-Apache Nation, or by diminishment in some other fashion. In such cases, an off-reservation acquisition will be entirely appropriate. In all cases where the tribe and local governments support the acquisition, the application should be moved forward expeditiously to approval.

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

The existing criteria under the current regulations is sufficient. See 25 CFR 151.10 – 151.11. See also the Nation’s comment under question No. 3 above. The Secretary should be looking for ways to make trust acquisitions more efficient and more responsive to the congressional objective, embodied in Section 5 of the IRA, of rolling back and lessening the harms done to Indian Country by the misguided, wrong and failed past-policies of the United States toward Indian people.

5. Should different criteria and/or procedures be used in processing off-reservation applications based on:

- a. Whether the application is for economic development as distinguished from non-economic development purposes (for example Tribal government buildings, or Tribal health care, or Tribal housing)?

There should be no distinction between the economic or non-economic purposes of a trust application. The presumption should be that the acquisition is necessary to achieving the broad recovery of tribal culture and economies envisioned by the IRA. The BIA should not substitute its judgement for the tribes’ judgement in determining whether a proposed land acquisition is necessary for the betterment of the tribe filing the application. Tribes need land for a variety of purposes, including economic development and housing, but also including education, recreation, cultural resource protections, open space and environmental protections, and all other purposes intended to advance the social and economic welfare of Indian people, as was intended by Congress in adopting the IRA.

- b. Whether the application is for gaming purposes as distinguished from other (non-gaming) economic development?

Different criteria and procedures should not be used in processing off-reservation applications for gaming purposes. Gaming considerations should not be included in the land into trust process as gaming considerations fall within the purview of the Indian Gaming Regulatory Act (“IGRA”) and its implementing regulations. Criteria and procedures for determining whether land acquired after October 17, 1988 is eligible for gaming are set forth in 25 U.S.C. § 2719 and in 25 C.F.R. Part 292 and include factors

such as historical and modern connections to the land and whether the land is within a reasonable commuting distance of the tribe's existing reservation - factors that were included in the now-withdrawn Consultation Draft of suggested revisions to 25 C.F.R. Part 151. Furthermore, including gaming considerations in the land into trust process would violate IGRA, which specifically states that "Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust." 25 U.S.C. § 2719(c).

c. Whether the application involves no change in use?

This questions wrongly assumes that tribal needs do not evolve and change over time or that a current land use should be locked in for all time. Both tribal needs and land use policies change over time. A land use that makes perfect sense under one set of circumstances, may be completely inappropriate under an evolving set of circumstances. Tribes, in the exercise of their sovereignty and self-determination, must be free to make decisions on all matters, including changing land use policies, as are directed by reality and informed the decision-making of tribal leaders. The Department should not step in to substitute its judgement for the judgement of tribal leaders.

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

The most important and overriding advantage of tribal trust land is its character as "Indian Country" and the concomitant powers of tribes to exercise their sovereignty and jurisdictional control over a defined territory and tribal homeland. Trust status is a bulwark against the potentially destructive effects of state and local control. Within Indian Country State law is generally not applicable to tribal governments and their citizens. Importantly, trust lands, as opposed to fee lands, are not subject to state and local taxes and therefore cannot be lost to tax liens and the processes of forfeiture – one of the primary disadvantages of holding lands in fee status. On the other hand, tribal trust lands provide the tribes with an opportunity to carve out their own distinct tax bases in further support of the general revenue needs of the tribe. The tribes are in the best position to determine when and how to apply their tax authority. Tribal control of trust lands gives tribes full discretion in deciding how best to develop and use those lands for economic development, for housing or for any of the many purposes to which the land might be suited.

The tribes can decide for themselves when lands should be held in fee status. Fee lands are generally subject to the jurisdictional control of state and local governments, thereby limiting the tribes' authority to self-govern within such lands. The holding of fee lands, in most instances is not ideal from the tribal-administrative

point of view and in most cases will likely be limited to limited instances as determined best by the tribes themselves. If a tribe holds fee land and then decides that the land should be placed into trust, the Department should process that request like any other request.

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

The consideration of any proposed revision to the Part 151 regulations should be scrapped. If revisions are made, pending applications should be considered under the regulatory scheme that poses the least restrictive means of accomplishing the trust taking. If a tribe has submitted a pending application and revisions occur, then the decision of which version of the regulations to proceed under should be left to the affected tribe.

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

Section 5 of the IRA does not require any balancing of interest as pre-supposed by the above question. Section 5 was enacted as a means of facilitating the return of tribal lands to the people from whom they were originally taken under disavowed federal policies that resulted in the loss of Indian land and culture. Section 5 is remedial legislation intended to diminish the harmful effects of the wholesale loss of Indian land that occurred under federal policies from the earliest days of the United States through the Act's adoption and beyond. The Secretary's trust responsibility is to the tribes and not to state and local governments. Section 5 does not set up any requirement that state and local governments have any direct role in the decision to approve a trust application. Historically it was in fact an overabundance of deference to non-Indian interest that resulted in the loss of Indian land in the first instance, leading to the very problems that eventually prompted adoption of the IRA. In the case of the Yavapai-Apache land loss, one historian summed up the root cause of the Yavapai and Apache forced exodus from the Verde Valley as follows:

*A ring of Federal officials, contractors, and others was formed in Tucson, which exerted great influence in the national capital, and succeeded in securing peremptory orders that the Apaches [and Yavapai] should leave [the Verde Valley] at once for the mouth of the sickly San Carlos, there to be herded with the other tribes. Hutton, Paul Andrew, *The Apache Wars*, Broadway Books, New York (2016).*

Under no circumstance should the Secretary consider any regulatory changes that that would allow the concerns of state and local officials to outweigh the Secretary's responsibility to take lands into trust for tribes. To do so would betray the rationale and intent of Section 5 of the IRA to serve as a means of reversing the harmful affects of historic Indian land losses. To adopt any regulatory measure that would give state and local governments a right to balance their interest against the interests

of the tribes and against the Secretary's duty to act for the benefit of the tribes, would at worst give state and local governments a veto over trust acquisitions, or in any case become a source of coercive leverage over decisions on trust application. To do this would be to turn back time to an era when local interest dictated federal decisions on Indian land tenure.

The current regulations provide for adequate identification and consideration of the interest of state and local governments in the land into trust process.

9. *Do Memoranda of Understanding (MOUs) and other similar cooperative agreements between tribes and state/local governments help facilitate improved tribal/state/local relationships in off-reservation economic developments? If MOUs help facilitate improved government-to-government relationships, should that be reflected in the off-reservation application process?*

While cooperative agreements can be effective in addressing the overlapping concerns of tribal and state/local jurisdictions, such agreements should not be made a requirement of the fee to trust regulations. Tribal/local cooperative agreements should be left where they belong – as agreements arrived at through an arms-length transaction that addresses the interest of both parties. For example, the Yavapai-Apache Nation has several cooperative agreements with state and local governments addressing issues such as road maintenance, fire protection, police dispatch, emergency services and water/sewer services. These agreements were adopted because they were deemed by the parties to be in their respective best interest. To require cooperative agreements as a part of the trust process would place the tribes at a distinct disadvantage in bargaining and would likely give state and local jurisdictions a veto power over trust applications. From the point of view of the Yavapai-Apache Nation, cooperative agreements are a result of already improved inter-government relations and not a precursor to such improved relations. The Secretary should leave the tribes and local jurisdictions to work out cooperative agreements as they see fit. The Secretary should not require cooperative agreements as a precondition to the acquisition of lands in trust.

10. *What recommendations would you make to streamline/improve the land-into-trust program?*

Interior should return decision making authority on trust applications to the BIA regional offices rather than centralizing the decision making in Washington. Local administrators, with their knowledge of the tribes and local circumstances, are best situated to evaluate trust applications and make final decisions. The Department's April 2017 memorandum, taking away regional BIA authority to approve off-reservation trust applications and giving that authority exclusively to the Central Office, should be rescinded.

The trust application process is already lengthy, with multiple steps, and overall difficult to navigate. Trust applications can take years to process. The department

should not add additional steps to the current process. To do so would only add to an already burdensome, expensive and time-consuming process. The Department should impose on itself specific review and processing deadlines. In addition, the Department should implement procedures and training designed to produce some uniformity in processing across all BIA regions.

The Yavapai-Apache Nation appreciates the Secretary's consideration of the above comments. The Nation ask that it be consulted fully on any further consideration of the matter of potential revisions to the Part 151 fee to trust regulations.

Tribal Consultation In Re Draft Revisions to 25 CFR Part 151 Fee-To-Trust Regulations

Phoenix, Arizona

February 20, 2018

Remarks of Jane Russell-Winiecki

Chairwoman, Yavapai-Apache Nation

The Historic Loss of the Yavapai and Apache People's Verde Valley Homeland

All Indian Nations across the country share a common history of losing all or a portion of our homelands. As America expanded its borders across the continent over the 200 years of the period known as "westward expansion," a similar story was repeated many times over. The Indian Nations encountered by the United States were different in name, language and culture, but the experience was largely the same. The Indian Nations lived on and cared for their respective homelands. The non-Indians moving west wanted that land and its resources for themselves and they proceeded to take it through the political and military power of the United States Government.

The effect on Indian people of the loss of their land was profoundly devastating; culturally, spiritually and economically. The land was everything to Indian people. The land was a living, breathing entity given to the people by the creator to care for as one would care for a parent. The land provided the economy and livelihood of the people. It provided sustenance to both the farmer and the hunter. Wherever Indian people lived, that place was their home; a place to raise their families, to find purpose and fulfillment, and to find happiness through all the seasons of life. The land gave its blessings of life generously to the people and asked only for respect in return. The spiritual strength of the people was tied to the land and its sacred and holy places. To walk the earth and see its beauty was to see and feel the hand of the creator and to understand the people's place in this world.

Now before I go on, I would ask you to stop for a moment and imagine in your mind's eye and in your heart the overpowering loss experienced by Indian people when all of this was taken away – when their deep connection to the land as a gift from the creator, as a place of both physical and spiritual sustenance, was ripped away and shattered.

The story of the Yavapai and Apache people of the Verde Valley and their loss of land is emblematic of the loss suffered by all of Indian Country over the course of America's expansion.

The ancestors of the Yavapai and Apache people who I represent here today inhabited the Verde Valley of central Arizona for many generations prior to the arrival of the non-Indians in what is now Arizona. The Verde Valley and the surrounding mountains were their homeland. During the

wars for expansion that followed America's settlers across the continent, the Yavapai and Apache people were looked upon as the enemy of the non-Indian farmer, rancher and miner. As an entire people we became inconvenient roadblocks in the American Nation's vision of its so called "manifest destiny." By 1871 the United States had ordered that the Yavapai and Apache families living in and around the Verde Valley be concentrated onto the Camp Verde Indian Reserve, a 575,000 acre reservation carved out of our much larger aboriginal homeland encompassing some 16,000 square miles. The Camp Verde Reservation was set aside in 1871 by executive order of President Ulysses S. Grant and was intended as our permanent homeland. To the United States however, the idea of a permanent homeland apparently meant less than 5 years. At the urging of federal officials as well as non-Indian Arizonans; the farmers, ranchers and miners who would benefit from an Indian Country where all Indians had been removed, President Grant in 1875 rescinded his executive order, abolished our reservation homeland and agreed to the demands of federal and Arizona territorial officials and private citizens that the Yavapai and Apache people be removed some 200 miles to the San Carlos Reservation where they could be further concentrated along with the Indian people already held there. In this terrible act of bad faith on the part of the United States, the Yavapai and Apache people lost their entire homeland, their birthright and their legacy.

The Yavapai-Apache land of the Verde Valley was taken by the United States for the specific purpose of opening that land to non-Indian settlement. What was once Indian land was to become the property of non-Indian settlers, a federal policy enforced by military power.

On February 27, 1875, a cold and snowy day, more than 1,300 Yavapai and Apache people, rounded up by American soldiers over the preceding days, began their forced march over the mountains to San Carlos. There was no waiting a few more weeks for spring to arrive. There were no horses or wagons to carry the people. There was only walking in moccasins that eventually gave way to bare feet walking over brush, cactus and sharp rocks. There was no travel over established wagon-roads to the south through what might have been warmer weather. There was only a straight-line route over the mountains. The people were forced into exile with only so much of their belongings as they could carry on their backs. The very young and the very old were all treated with equal cruelty. Those of our people who refused to leave the Verde Valley tried to escape and remain free and unseen. As ordered by the United States, these people were hunted down and either captured or killed outright. Imprisoned at San Carlos, the Yavapai and Apache people never forgot their Verde Valley homeland and never gave up the hope that someday they would be allowed to return to that homeland to rebuild their lives.

By the early 1900's, Yavapai-Apache individuals and families began to trickle back into the Verde Valley, back to what had been their homeland. There they found that their former home was now owned by the non-Indians and their descendants who had insisted on their removal to San Carlos some 30 years earlier. In November 1909, the United States acquired 18 acres of land in trust for the Yavapai-Apache. A school was built, and a small reservation was reestablished for the people. Recognizing that the needs of the people were great, the United

States acquired an additional 460 acres in trust in 1915. This was the beginning of our recovery as a people from the terrible loss that we had suffered when our lands were taken and given to others. The harm done in 1875 through the loss of our land was deep and abiding and has reached down through the years to harm every generation of Yavapai-Apache people from then till now. To take away everything that a people have is to rob them of their culture, their economy, their sense of place in the world and their identity as a people. Little by little over the years since then, the Yavapai-Apache people, with the occasional assistance of the United States, began the slow and painful process of recovering from the devastating loss of their homeland by reacquiring a small portion of our original lands. Additional small trust acquisitions have occurred slowly over the years so that now our small reservation consists of just over 1,830 acres. Remember, the Yavapai-Apache people went from an aboriginal territory of over 16,000 square miles, to the 575,000 acre reservation in 1871, to no land at all in 1875 when imprisoned at San Carlos, and only now to 1,830 acres - less than three square miles of land. The loss of land for the Yavapai-Apache people was stark in its magnitude.

For the Yavapai-Apache Nation, the acquisition of land is always about our recovery from the terrible harm done to us by the United States when it shattered our connection to the land, took away our homeland and gave it away to strangers. The recovery from such loss by a Nation of people can only occur over a long period of time. Every land acquisition by the Yavapai-Apache Nation is aimed at rebuilding at least a small portion of our homeland. Whether for housing or economic development, for cultural preservation or open space, for agriculture or watershed protection, all land acquisitions are for the benefit, general welfare and long-term prosperity of the Yavapai-Apache people. Reacquiring our lands is a small part of reclaiming the legacy that was stripped away from us on our long march and exodus to San Carlos in 1875. In acting to acquire new lands in trust, the Yavapai-Apache Nation is simply trying to regain a small part of what was taken away from us by the United States.

Acquiring lands in trust is not about diminishing local non-Indian tax bases or rezoning land uses. Land acquisitions are about rebuilding Indian communities that have long been devastated by the loss of land. Indian Nations and local communities can in many cases work out their differences on land acquisitions. The Yavapai-Apache Nation for example works closely with local non-Indian communities to provide for cross-jurisdictional cooperation. The Tribes and the local communities should be left to work out local issues without particularized regulatory mandates. Where such mutual arrangements are difficult because of lingering local animosities against a tribe, it is the responsibility of the United States to exercise the discretion congress provided in 1934 under the Indian Reorganization to acquire land for the various needs of the tribes. What we cannot accept in your proposed regulatory revisions is any regulatory changes that take away Secretarial discretion or that gives local non-Indian communities a veto power over Native Nations' land acquisitions. This would be contrary to congressional intent and harmful to the Indian Nations.

The United States should not now begrudge Indian Nations the opportunity to recover from the cultural, spiritual and economic losses, and the genocidal harm inflicted on Indian people by the failed federal policies of the past. Instead of making it more difficult for Indian people to recover their lost lands, as the proposed revision of the Part 151 regulations will do, the United States should be clearing away the bureaucratic obstacles that currently stand in the way. Instead of throwing up sandbags and laying down pitfalls, the United States should be smoothing out the road to greater tribal prosperity by streamlining the land into trust process. The current regulatory requirements are onerous enough. They do not need to be made worse by the proposed revisions. Don't ask Indian Country, the various Nations of which have been harmed enough by failed federal policies, to buy into new bad policy initiatives that can only lead to new harms.

In closing, I have two questions that I will leave you with. First, it is not entirely clear why the Secretary is considering the proposed Part 151 revisions or what the issues are that you hope to address by such revisions. Is the Secretary opposed to all trust acquisitions or just certain acquisitions? Can you identify the kinds of acquisitions with which the Secretary is concerned? It is difficult to respond to generalities. Greater specificity would be helpful

In addition to my comments made today, the Yavapai-Apache Nation will submit formal comments in response to the consultation questions by the February 28 deadline.