



NAVAJO NATION DEPARTMENT OF JUSTICE *OFFICE OF THE ATTORNEY GENERAL*

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via Federal e-Rulemaking Portal,
<http://www.regulations.gov>, and
email to consultation@bia.gov

Elizabeth Appel, Director
Office of Regulatory Affairs & Collaborative
Action—Indian Affairs (RACA)
U.S. Department of the Interior
1849 C Street NW, Mail Stop 4660
Washington, DC 20240

**Re: Comments on Indian Land Title and Records
Proposed Rule RIN No. 1076-AF56**

Dear Ms. Appel:

On behalf of the Navajo Nation (“Nation”), this letter provides comments on the proposed revised 25 C.F.R. Part 150, published at 85 Fed. Reg. 79,965 on December 11, 2020, concerning administration of Indian Land Title and Records by the Land Title and Records Office (“LTRO”). The Nation supports this rulemaking to reflect updated procedures and to improve the operation of the LTRO. Consistent with that, the Nation provides the following comments:

First, proposed Section 150.3 provides that a Tribe may contract or compact under the Indian Self-Determination and Education Assistance Act to administer on the LTRO’s behalf any portion of Part 150 which is not an inherently federal function. While that is legally correct, it is not especially helpful. Therefore, please revise that provision to identify LTRO functions that are inherently federal, including a general catch all only if necessary. We expect that this has been identified through prior experience with tribal administration of LTRO functions.

Second, proposed Section 150.303 limits who may request and receive title records from the LTRO to (a) owners of an interest in the relevant land, (b) the Tribe with jurisdiction over the land, and (c) anyone who is leasing, using, or consolidating Indian land or applying to lease, use, or consolidate Indian land. That is helpful to preclude others from accessing trust records, so the Nation generally supports that provision. However, the reference to “applying” is overly broad and vague, since that is not defined or constrained, and may allow any third party to merely assert that they are seeking to lease, use, or consolidate Indian lands to obtain records. To constrain that, Subsection 150.303(c) should be revised to require that any person or entity seeking to request or receive records based on applying to lease, use, or consolidate Indian land also must be required

to submit written proof of consent for that disclosure by either the owners of the Indian land or the Tribe with jurisdiction over the Indian land.

Finally, proposed Section 150.306(a) provides that an LTRO may charge a fee to a Tribe or a third party that requests title records. The latter makes sense and we support that. In contrast, it not sensible or appropriate that a Tribe with jurisdiction over Indian land may be charged to obtain copies of records concerning that land. For example, this would mean that the LTRO might charge the Nation if the Nation seeks to obtain records concerning its own trust land or to identify, confirm, or address individual Indian allotments along an easement or adjoining tribal trust land or to locate or relocate an easement. That is wholly unacceptable. The federal government should not grant itself authority to charge Indian Nations to obtain such trust records.

Thank you for your consideration of these comments.

Ahéhee',



Doreen N. McPaul

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