

SUBCHAPTER H—LAND AND WATER

PART 150—RECORD OF TITLE TO INDIAN LAND

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AUTHORITY: 5 U.S.C. 301; 5 U.S.C. 552a; 25 U.S.C. 2; 25 U.S.C. 5; 25 U.S.C. 7; 25 U.S.C. 9; 25 U.S.C. 14b; 25 U.S.C. 25; 25 U.S.C. 199; 25 U.S.C. 343; 25 U.S.C. 355; 25 U.S.C. 413; 25 U.S.C. 2201 *et. seq.*; 44 U.S.C. 2901 *et. seq.*; 44 U.S.C. 3101 *et. seq.*; and 44 U.S.C. 3301 *et. seq.*

SOURCE: 86 FR 45641, Aug. 16, 2021, unless otherwise noted.

Subpart A—Purpose and Definitions

§ 150.1 What is the purpose of this part?

This part describes the BIA repository of title documents for Indian land and responsibilities for recording title documents, maintaining the repository, and providing reports on title to Indian land.

§ 150.2 What terms do I need to know?

Agency means the BIA agency or field office with jurisdiction over a particular tract of Indian land or another BIA office through delegation and documentation of responsibilities in the Indian Affairs Manual. This term also means any Tribe acting on behalf of the Secretary or BIA under a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 *et seq.*).

BIA means the Bureau of Indian Affairs within the Department of the Interior.

Certified copy means a copy of a title document that is a true and correct copy of the title document as recorded in the record of title and evidenced by an official seal.

Certify for the purposes of certifying Title Status Reports, probate inventory reports, title status maps, and findings of title examinations means that an LTRO Certifying Officer has determined that the report, map, or examination of land title status is complete, correct, and current, based on the record of title.

Certifying Officer means the LTRO Manager or another properly authorized or delegated Federal official who

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certifies the status of title to Indian lands or copies of title documents.

Defect or title defect means an error contained within, or created by, a title document that makes the title to Indian land uncertain.

I or you means the person to whom these regulations directly apply.

Indian land means land, or an interest therein, that is:

(1) Held in trust by the United States for one or more individual Indians or Tribes; or

(2) Owned by one or more individual Indians or Tribes and can only be alienated or encumbered by the owner with the approval of the Secretary because of restrictions or limitations in the conveyance instrument or in Federal law.

Inherently Federal function means Federal function that may not legally be delegated to an Indian Tribe.

Land is real property, including any interests, benefits, and rights inherent in the ownership of the real property. Land may include surface and/or subsurface interests.

LTRO means the Land Title and Records Office within the BIA, which is responsible for recording title documents, maintaining the record of title, and providing certified copies of title documents and reports. The term LTRO, as used herein, includes any Tribe acting on behalf of the Secretary or BIA under § 150.3.

Manager is the designated officer in charge of a LTRO office or his or her designated representative.

OHA means the Office of Hearings and Appeals within the Department of the Interior.

Probate Inventory Report means a report of Indian land owned by an individual Indian at the time of his or her death.

Record of title means the BIA's repository of title documents for Indian land.

Recording is the acceptance of a title document and entry into the record of title of a title document by LTRO. An official LTRO stamp affixed to the title document provides evidence that the title document has been recorded.

Region means a BIA regional office.

Secretary means the Secretary of the Interior or his or her authorized representative.

Title means ownership of Indian land.

Title document means any document that affects the title to or encumbers Indian land, including but not limited to conveyances, probate orders, encumbrances (such as mortgages, liens, permits, covenants, leases, easements, rights-of-way), plats, cadastral surveys, and other surveys.

Title examination means a review and evaluation by the LTRO of: (1) title documents submitted to it for recording, and (2) the status of title for a particular tract of Indian land based on the record of title, and a finding, certified by the LTRO Manager, that title is complete, correct, current, and without defect, or identifies defects that must be corrected.

Title Status Report means a report issued after a title examination that shows the proper legal description of a tract of Indian land; current ownership, including any applicable conditions, exceptions, restrictions or encumbrances of record; and whether interests in the land are in unrestricted, restricted, trust, and/or other status as indicated by the record of title in the LTRO.

Tribe means an Indian Tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5129(a).

§ 150.3 May Tribes administer this part on LTRO's behalf?

A Tribe may contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 *et seq.*) to administer on LTRO's behalf any portion of this part that is not an inherently Federal function.

Subpart B—Record of Title to Indian Land

§ 150.101 What is the purpose of the record of title?

The record of title provides the BIA with a record of title documents to Indian land and provides constructive notice that the title documents exist.

§ 150.102 Who maintains the record of title?

The LTRO is designated as the office responsible for maintaining the record of title.

§ 150.103 What services does the LTRO perform to maintain the record of title?

The LTRO is responsible for performing the following services to maintain the record of title:

- (a) Recording title documents submitted by an Agency, Region, or OHA;
- (b) Providing certified copies of the title documents in the record of title in accordance with applicable law;
- (c) Examining the record of title and certifying the findings of title examinations;
- (d) Providing certified and uncertified Title Status Reports;
- (e) Preparing, maintaining, and providing land status maps;
- (f) Providing and certifying probate inventory reports; and
- (g) Providing other services and reports based upon the information in the record of title.

§ 150.104 How does the LTRO maintain the record of title?

The LTRO maintains the record of title electronically. However, certain title documents may exist only as physical copies and not electronically.

§ 150.105 Are certain LTRO offices responsible for certain geographic areas?

Staff at each LTRO office will have primary responsibility to maintain the record of title for Indian land under that LTRO office's assigned geographic area, based on BIA Region, Tribal reservation, or otherwise, as prescribed by BIA through internal procedures. BIA will keep an updated list of each LTRO office's assigned geographic area of responsibility on www.bia.gov/bia/ots/dltr. LTRO offices operated by BIA (as opposed to a Tribe acting on behalf of the Secretary) may assist in maintaining the record of title for Indian land not under their assigned geographic area as needed.

Subpart C—Procedures and Requirements To Record Documents**§ 150.201 What is recorded in the record of title?**

(a) All title documents for Indian land must be recorded in the record of title, regardless of whether the document reflects a transaction that required Secretarial approval. For example, the following do not require Secretarial approval, but are title documents required to be recorded:

- (1) Service line agreements must be recorded under 25 CFR 169.56;
- (2) Individual leases under approved Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Tribal regulations must be recorded under the Indian Affairs Manual (IAM) at 52 IAM 13;
- (3) Individual leases, business agreements, and rights-of-way under Tribal Energy Resource Agreements under 25 CFR 224 must be recorded;
- (4) Leases between a Tribe and a Tribal energy development organization under 25 CFR 224 must be recorded;
- (5) Leases of Tribal land by a 25 U.S.C. 477 corporate entity under its charter to a third party for a period not to exceed 25 years must be recorded under 25 CFR 162.006(b)(3)(i);
- (6) Tribal authorization for Tribal utility lines crossing Tribal lands must be recorded under § 169.4(b)(3)(iii); and
- (7) Subleasehold mortgages under 25 CFR 162.009 must be recorded.

(b) The requirement in paragraph (a) of this section does not eliminate or supersede any Federal statute or regulation requiring the recording of title documents for Indian land in other records of title, including title documents for Indian land within the jurisdiction of the Five Civilized Tribes or the Osage Nation.

(c) LTRO may also record:

- (1) Documents that demonstrate the rights of use, occupancy, and/or benefit of a Tribe to U.S. Government land or other non-Indian lands; and
- (2) Certain documents regarding Indian lands that are not title documents.

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§ 150.202 Must I check with any other governmental office to find title documents for Indian land?

LTRO maintains current and historical title documents to Indian land but in certain circumstances, due diligence may require examination of other Federal, State, and local records of title.

§ 150.203 Who may submit a title document for recording?

Only an Agency, Region, or OHA may submit title documents to the LTRO for recording. All other government offices and individuals must submit title documents to the Agency, Region, or OHA, as appropriate, for that Agency, Region, or OHA to submit to the LTRO.

§ 150.204 Who records title documents?

The LTRO is the designated office to record title documents. The BIA Director may delegate the authority to record title documents to another BIA office by documenting the delegation and the types of transactions to which it applies in the Indian Affairs Manual.

§ 150.205 What are the minimum requirements for recording a title document?

(a) A title document must include the following information to be recorded in the record of title, except as provided in paragraph (b) of this section:

(1) A legal description of the Indian land encumbered by the title document and, if available, the tract number;

(2) The signatures of the parties to the document;

(3) Proper traditional in-person notarization or other in-person acknowledgment of the signatures of the parties, if applicable;

(4) Signature and citation to the authority of the approving official, if applicable; and

(5) Approval date.

(b) If the title document reflects a transaction that was deemed approved under a statute or regulation providing that a transaction is deemed approved after a certain period of time without Secretarial action to approve or deny, then, at a minimum, the title document must include the following items:

(1) A legal description of the Indian land encumbered by the title document and, if required, the tract number;

(2) The signatures of the parties to the document;

(3) Proper acknowledgement or authentication of the signatures of the parties, if applicable; and

(4) A citation to the statutory or regulatory authority for the transaction to be deemed approved.

§ 150.206 What actions will the LTRO take if it discovers a title defect?

(a) If prior to recording a title document, the LTRO discovers that the title document omits one or more of the items required for recording by § 150.205(a) or (b), then the LTRO will notify the originating office to request correction. Once the omission is corrected, the LTRO will record the title document.

(b) If prior to recording a title document, the LTRO discovers there is an error in one or more of the items required for recording by § 150.205(a) or (b), then the LTRO will record the title document, unless the defect is fatal, with a notation on title and notify the originating office to request correction. Once the error is corrected, the LTRO will record the corrected title document and remove the notation.

(c) If the LTRO discovers a title defect during a title examination, the LTRO will notify the originating office of the defect, request correction, and make a notation in the record of title. Once the defect is corrected, the LTRO will record the corrected title document or other legal instruments to correct the title document and remove the notation.

(d) If the defect is contained in a probate record, the LTRO will notify the Agency or Region to initiate corrective action with the OHA.

Subpart D—Disclosure of Title Documents and Reports

§ 150.301 How does the LTRO certify copies of title documents?

The Certifying Officer certifies copies of title documents in the record of title by affixing an official seal to the copy of the title document. The official seal attests that the certified copy is a true

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and correct copy of the recorded title document.

§ 150.302 What reports does the LTRO provide?

The LTRO provides the following types of reports for Indian land to those persons or entities authorized to receive such information:

(a) Certified reports, including a Title Status Report, Land Status Map, and, as part of the probate record, the Probate Inventory Report; and

(b) Uncertified reports or other reports based upon the information in the record of title.

§ 150.303 Who may request and receive copies of title documents in the record of title or reports from the LTRO without filing a Freedom of Information Act request?

The following individuals and entities may request and receive, through the Region or Agency office, copies of title documents in the record of title or reports for Indian land from the LTRO without filing a Freedom of Information Act request to the extent that disclosure would not violate the Privacy Act or other law restricting access to such records, for example, 25 U.S.C. 2216(e):

(a) Owners of an interest in Indian land (or their legally authorized representative) may request copies of title documents in the record of title or reports for the Indian land in which they own an interest;

(b) The Tribe with jurisdiction over the Indian land may request title documents or reports for Indian land subject to the Tribe's jurisdiction;

(c) Any person (or their legally authorized representative) or entity who is leasing, using, or consolidating Indian land or is applying to lease, use, or consolidate Indian land may request title documents or reports for such Indian land; and

(d) Federal agencies administering Native American homeownership programs and Federal lenders participating in these programs who need information on specific Indian land to provide funding.

§ 150.304 Where do I request copies of title documents or reports from the LTRO?

You may request LTRO information, such as copies of title documents or reports, at any Region or Agency office with access to the record of title, regardless of geographic location. If the Region or Agency office does not have access to the title documents or the ability to generate the reports requested, it will refer the request to the office with access to the title documents or ability to generate the reports requested.

§ 150.305 What information must I provide when requesting copies of title documents and reports?

(a) Except as provided in paragraph (b), to request title documents or reports, you must provide only one of the following items of information:

(1) If you are inquiring about your own interest in the tract, then your name and date of birth, or identification number; or

(2) The name of the reservation where the land is located and either the tract number or legal description; or

(3) The Agency name and either the tract number or legal description; or

(4) A legal description of the tract; or

(5) A title document number pertaining to the tract; or

(6) The allotment number including the Tribe or land area code; or

(7) The name of the original allottee.

(b) Individuals and entities described in §150.303(c) must also provide documents showing that they are entitled to the information they are requesting from the LTRO because they are leasing, using, or consolidating Indian land or the interests in Indian land, or because they are applying to lease, use, or consolidate Indian land or the interests in Indian land.

§ 150.306 Will I be charged a fee for obtaining copies of records?

(a) The LTRO may charge a fee to any of the parties listed in §150.303 (c) for each copy of recorded title documents, Title Status Reports, and land status maps to cover the costs in reviewing, preparing, or processing the documents.

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(b) The fee will be at the rate established by 43 CFR 2, Appendix A.

(c) The LTRO may waive all or part of these fees, at its discretion.

(d) Paid fees are non-refundable.

Subpart E—Records

§ 150.401 Who owns the records associated with this part?

(a) The records associated with this part are the property of the United States if they:

(1) Are made or received by the Secretary or a Tribe or Tribal organization in the conduct of a Federal trust function under 25 U.S.C. 5301 *et seq.*, including the operation of a trust program; and

(2) Evidence the organization, functions, policies, decisions, procedures, operations, or other activities undertaken in the performance of a Federal trust function under this part.

(b) Records not covered by paragraph (a) of this section that are made or received by a Tribe or Tribal organization in the conduct of business with the Department of the Interior under this part are the property of the Tribe.

§ 150.402 How must records associated with this part be preserved?

(a) Tribes, Tribal organizations, and any other organization that make or receives records described in § 150.401(a) must preserve the records in accordance with approved Departmental records retention procedures under the Federal Records Act, 44 U.S.C. chapters 29, 31 and 33. These records and related records management practices and safeguards required under the Federal Records Act are subject to inspection by the Secretary and the Archivist of the United States.

(b) A Tribe or Tribal organization should preserve the records identified in § 150.401(b) for the period of time authorized by the Archivist of the United States for similar Department of the Interior records in accordance with 44 U.S.C. chapter 33.

§ 150.403 How does the Paperwork Reduction Act affect this part?

The information collections contained in this part have been approved by the Office of Management and Budget

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under 44 U.S.C. 3301 *et seq.* and assigned OMB Control Number 1076–0196. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation containing the collection of information has a currently valid OMB Control Number.

PART 151—LAND ACQUISITIONS

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AUTHORITY: R.S. 161; 5 U.S.C. 301. Interpret or apply 46 Stat. 1106, as amended; 46 Stat. 1471, as amended; 48 Stat. 985, as amended; 49 Stat. 1967, as amended, 53 Stat. 1129; 63 Stat. 605; 69 Stat. 392, as amended; 70 Stat. 290, as amended; 70 Stat. 626; 75 Stat. 505; 77 Stat. 349; 78 Stat. 389; 78 Stat. 747; 82 Stat. 174, as amended, 82 Stat. 884; 84 Stat. 120; 84 Stat. 1874; 86 Stat. 216; 86 Stat. 530; 86 Stat. 744; 88 Stat. 78; 88 Stat. 81; 88 Stat. 1716; 88 Stat. 2203; 88 Stat. 2207; 25 U.S.C. 2, 9, 409a, 450h, 451, 464, 465, 487, 488, 489, 501, 502, 573, 574, 576, 608, 608a, 610, 610a, 622, 624, 640d–10, 1466, 1495, and other authorizing acts.

CROSS REFERENCE: For regulations pertaining to: The inheritance of interests in trust or restricted land, see parts 15, 16, and 17 of this title and 43 CFR part 4; the purchase of lands under the BIA Loan Guaranty, Insurance and Interest Subsidy program, see part 103 of this title; the exchange and partition of trust or restricted lands, see part 152 of this title; land acquisitions authorized by the Indian Self-Determination and Education Assistance Act, see parts 900 and 276 of this title; the acquisition of allotments on the public domain or in national forests, see 43 CFR part 2530; the acquisition of Native