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Real Estate Services

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Eastern Oklahoma Region
Eastern Oklahoma Regional Office
P.O. Box 8002
Muskogee, OK 74402-8002



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Honorable George Wickliffe
Chief, United Keetoowah Band of Cherokee Indians
P.O. Box 746
Tahlequah, Oklahoma 74465

MAY 24 '2011

Dear Chief Wickliffe:

The United Keetoowah Band of Cherokee Indians (UKB) initially submitted this application to acquire 76 acres located in Section 8, Township 16 North, Range 22 East, in Cherokee County, Oklahoma (Community Services Parcel) into trust on June 9, 2004. On April 7, 2006, the Bureau of Indian Affairs, Eastern Oklahoma Region (Region) issued its decision declining to take the Community Services Parcel into trust (2006 Decision). The UKB appealed the Region's decision in *United Keetoowah Band of Cherokee Indians in Oklahoma v. Eastern Oklahoma Regional Director*, IBIA 06-68-A. On May 2, 2008, the Region requested a remand for reconsideration from the Interior Board of Indian Appeals (IBIA) in response to a directive issued by the Assistant Secretary – Indian Affairs (Assistant Secretary) dated April 5, 2008 (2008 Directive). The IBIA issued an order vacating the Region's April 7, 2006 Decision and remanded the case to the Region for reconsideration on June 4, 2008.

On August 6, 2008, the Region issued a decision again denying the UKB's fee-to-trust application (2008 Decision). The UKB appealed the Region's 2008 Decision to the IBIA. However, on September 4, 2008, the Acting Assistant Secretary informed the IBIA that he was taking jurisdiction of the appeal pursuant to 25 C.F.R. § 2.20 (c). Thereafter, the Assistant Secretary issued decisions dated June 24, 2009 (2009 Decision), July 30, 2009, and September 10, 2010 (2010 Decision), which, in essence, vacated the Region's 2008 Decision, and remanded the UKB's application to the Region for further consideration consistent with said Decisions.

In his 2010 Decision, the Assistant Secretary concluded that the UKB should be allowed to amend its application to invoke alternative authority for the acquisition of land into trust. On October 5, 2010, the UKB amended its application to take the Community Services Parcel into trust by requesting that the said parcel be taken into trust for the United Keetoowah Band of Cherokee Indians, a federally-chartered corporation (UKB Corporation) under Section 3 of the Oklahoma Indian Welfare Act of June 26, 1936 (OIWA), 25 U.S.C. § 503, rather than for the UKB under Section 5 of the Indian Reorganization Act of June 18, 1934 (IRA), 25 U.S.C. § 465. On January 21, 2011, the Assistant Secretary wrote to the UKB to clarify certain additional matters pertaining to

this application. The Assistant Secretary's April 5, 2008 Directive, his June 24, 2009, July 30, 2009, and September 10, 2010 Decisions, as well as his January 21, 2011 Letter are specifically incorporated in this decision by reference.

Adhering to the decisions issued by the Assistant Secretary in this matter dated June 24, 2009, July 30, 2009, and September 10, 2010, as well as the said January 21, 2011 Letter to the UKB, the Region has completed reconsideration of the amended fee-to-trust acquisition request. For the reasons discussed below, the UKB's amended fee to trust acquisition request is approved, conditional upon the satisfactory completion of certain title requirements as discussed below.

The determination to acquire property in trust is made in the exercise of discretionary authority that is vested in the Secretary of the Interior (Secretary) and delegated to this office. The request was evaluated in accordance with the regulations contained in Title 25, Code of Federal Regulations, Part 151 -- Land Acquisitions, and in accordance with the Assistant Secretary's June 24, 2009, July 30, 2009, and September 10, 2010 Decisions, as well as his January 21, 2011 Letter. The Region's evaluation of the remanded request, as amended, is as follows:

1. §151.3 - Land acquisition policy

Land may be acquired in trust by the United States Government for Indians and Tribes only when there is statutory authority to do so. The Assistant Secretary's 2010 Decision, as clarified by the Assistant Secretary's January 21, 2011 Letter to the UKB, concluded that Section 3 of the OIWA, 25 U.S.C. § 503, implicitly authorizes the Secretary to take land into trust for the UKB Corporation. The Assistant Secretary's Decision and Letter are binding on the Region and preclude further consideration of this issue by the Region. 25 C.F.R. § 151.3(a) states that land may be acquired in trust for a tribe when (1) the land is located within the exterior boundaries of the tribe's reservation or adjacent thereto, or within a tribal consolidation area; or (2) when the tribe already owns an interest in the land; or (3) when the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing. The Community Services Parcel is owned in fee by the UKB. Neither the UKB nor the UKB Corporation own any trust land. The UKB's stated need for the fee-to-trust request is for activities to facilitate self-determination and self-sufficiency. The Assistant Secretary's 2009 Decision found that the UKB has a need for this land to be taken in trust. The Assistant Secretary's 2010 Decision found that the UKB could exercise jurisdiction over land taken into trust for the UKB Corporation. Accordingly, the acquisition of this land into trust for the UKB Corporation will facilitate tribal self-determination for the UKB.

In accordance with the foregoing, the Region finds there is statutory and regulatory authority to take the Community Services Parcel into trust for the UKB Corporation.

2. §151.4 - Acquisitions in Trust of Lands Owned in Fee by an Indian

The proposed acquisition is for Tribally-owned property. The Bureau finds that this section is not applicable to this request.

3. §151.5 – Trust acquisitions in Oklahoma under Section 5 of the I.R.A.

The Assistant Secretary concluded in his 2010 Decision that authority exists for the Secretary to take land in trust for the UKB Corporation under Section 3 of the OIWA. Therefore, the Bureau finds that this section of the regulations is not applicable to this request.

4. §151.6 – Exchanges

The UKB is the sole owner of the property proposed to be acquired in trust. Accordingly, this section is not applicable to the UKB's request.

5. §151.7 – Acquisitions of fractional interests

This section of the regulations is also not applicable to the UKB's request because the UKB is the sole owner of the property proposed to be acquired in trust.

6. §151.8 - Tribal consent for non-member acquisitions

This section provides that an Indian Tribe “may acquire land in trust status on a reservation other than its own only when the governing body of the tribe having jurisdiction over such reservation consents in writing to the acquisition.” 25 C.F.R. § 151.8. The regulations define a reservation in Oklahoma as “that area of land constituting the former reservation of the tribe as defined by the Secretary.” 25 C.F.R. 151.2(f). The Department has consistently found the former treaty lands of the Five Civilized Tribes to be “former reservations.” The UKB property is located within the last treaty boundaries of the Cherokee Nation as defined by the terms of the Treaty of New Echota, 7 Stat. 478 (December 29, 1835), and the 1866 treaty between the Cherokee Nation and the United States, 14 Stat. 799 (July 19, 1866). The Assistant Secretary's 2009 Decision concluded that the Congress overrode 25 C.F.R. § 151.8 with respect to lands within the boundaries of the former Cherokee reservation by including in the Interior and Related Agencies Appropriations Act of 1999 the following language: “until such time as legislation is enacted to the contrary, no funds shall be used to take land into trust within the boundaries of the original Cherokee territory in Oklahoma without consultation with the Cherokee Nation.” 112 Stat. 2681-246. Thereafter, the Assistant Secretary specifically concluded that the Cherokee Nation of Oklahoma (CN) “does not need to consent to the acquisition in trust of the UKB's land. It is only necessary that the Department consult with the CN. The Department satisfied this requirement when it solicited comments from the CN.” In his 2011 Letter to the UKB, the Assistant Secretary specifically advised the UKB that there would be no need to seek additional comments from local jurisdictions, unless a change in land use was planned for the parcel. Then, the Assistant Secretary wrote: “The Regional Director is to consider the application based on the comments submitted in connection with your first application.” The Assistant Secretary's Decisions and determinations in connection with this application are binding on the Region. Consistent therewith, the Region finds this section is not applicable to this request, and that the requirement for consultation with the CNO was met when the Region solicited comments from the CNO on February 28, 2005, in connection with the UKB's initial application for the acquisition in trust of the Community Services Parcel.

While the Region did not solicit comments from the Nation, it did receive and review letters dated October 21, 2010, October 28, 2010, March 9, 2011, and two letters dated March 21, 2011 submitted by or on behalf of the Cherokee Nation to either the Region or the Assistant Secretary. Initially, the Cherokee Nation argues that, because the UKB and the UKB Corporation are separate entities, an application from the UKB Corporation is a new application upon which the Nation should be allowed to comment. However, the Nation misunderstands the amendment. The entity requesting that the land be placed in trust is not the UKB Corporation, it is the UKB. The UKB presently holds fee title to the subject property, and the UKB passed a new Resolution authorizing that the land be placed into trust for the UKB Corporation and amending its application accordingly. Thus, the entity making the application has not changed. Only the identity of the requested trust beneficiary has changed. The substantive issue that the Cherokee Nation argues that it should be allowed to comment on is the determination that Section 3 of the OIWA authorizes the Secretary to take land into trust for a tribal corporation chartered under the OIWA. However, that issue was decided by the Assistant Secretary in his 2010 Decision, and the Region is precluded from revisiting it here.

7. §151.9 – Request for approval of acquisitions

By correspondence dated June 9, 2004, the UKB submitted a written request and accompanying documentation for the acquisition of the Community Services Parcel to be held in trust by the United States Government for its benefit. On October 5, 2010, the UKB submitted an amended fee-to-trust application requesting the property be taken in trust for the UKB Corporation under Section 3 of the OIWA. The Assistant Secretary determined in his 2009 Decision that the UKB satisfied this requirement by submitting a written request and supporting materials on June 9, 2004, to have the parcel placed in trust. Additionally, the Region finds that the amended fee-to-trust application dated October 5, 2010, by the UKB requesting the property be placed in trust for the UKB Corporation satisfied this requirement.

8. §151.10—On-reservation acquisitions

The following criteria must be considered in evaluating both on and off reservation acquisitions by Indian tribes:

- (a) The existence of statutory authority for the acquisition and any limitations contained in such authority.

The Assistant Secretary's 2010 Decision, as clarified by the Assistant Secretary's January 21, 2011 Letter to the UKB, concluded that Section 3 of the OIWA, 25 U.S.C. § 503, implicitly authorizes the Secretary to take land into trust for the UKB Corporation. The Assistant Secretary's 2010 Decision and January 21, 2011 Letter are binding on the Region. Accordingly, the Region finds that Section 3 of the OIWA, 25 U.S.C. § 503 provides the Secretary with authority to acquire the Community Services Parcel in trust for the UKB Corporation.

(b) The need of the Tribe for additional land.

The Assistant Secretary's 2009 Decision found that the UKB has no land in trust and concluded that the UKB has a need for this land to be taken in trust. The Assistant Secretary's Decision is binding on the Region.

(c) The purposes for which the land will be used.

The Assistant Secretary's 2009 Decision found that the UKB intends to utilize the property for the operation of programs which provide services to UKB Tribal members, and that such purposes would not conflict with existing zoning and use patterns for the area or with state or Federal law. The Assistant Secretary's 2009 Decision further found that the purposes for which the land will be used are permissible. The UKB's amended application to take the land into trust for the UKB Corporation did not identify any expected changes in the intended use of the property. The Region finds that the application as amended has adequately described the intended use of the property and that the stated uses are permissible.

(d) The amount of trust land owned by an individual Indian and the need for assistance in handling his affairs.

This section of the regulations does not apply because the application is not for an individual Indian.

(e) If the land to be acquired is in unrestricted fee status, the impact on the state and its political subdivision resulting from the removal of the land from the tax rolls.

The UKB currently owns this land in unrestricted fee status. Comments on the potential impacts of the proposed acquisition on regulatory jurisdiction, real property taxes and special assessments were previously solicited from the state and local political subdivisions. By letters dated February 28, 2005, the Cherokee County officials and the Cherokee Nation were contacted for their views. Responses were received from the Cherokee County Commissioners, Cherokee County Treasurer, and the CN. No negative impacts from the loss of the property tax revenue were identified by the aforementioned officials.

Real property in Oklahoma is subject to state ad valorem taxes, which is collected by the respective counties to fund a variety of countywide services. The largest share goes to the local school districts. The subject property is currently carried on the Cherokee County Assessor's rolls as taxable. Police, fire, water and sanitation services for the property are currently provided by Cherokee County, Oklahoma. There are no special assessments or outstanding tax assessments. Property taxes are not the sole source of county support. Based on the information submitted with the request dated June 9, 2004, the ad valorem taxes for the property identified in the proposed acquisition for 2003 totaled \$5,081.98. Although the UKB application has been amended since comments were solicited from the state and local jurisdictions, the Assistant Secretary's January 21, 2011 Letter specifically found that there was no need to seek additional comments from local jurisdictions unless a

change in land use is planned. Because the Region has concluded that no change in land use is planned for the Community Services Parcel, as discussed below, no additional comments were solicited from the local jurisdictions. We note, however, that 2009 tax information submitted by the UKB for purposes of the title opinion reflects that the ad valorem taxes for this property have not changed significantly since the county treasurer's response was received in 2005. The 2009 assessment was \$5,282.00. The Region finds that the impact on the state and local governments resulting from the removal of the subject property from the tax rolls will be insignificant.

(f) Jurisdictional problems and potential conflicts of land use which may arise.

If the subject property is taken in trust, it will become Indian country. The Supreme Court has found that lands held in trust by the Federal Government for the benefit of a tribe are validly set apart for the use of the Indians under the superintendence of the Federal Government and, as such, constitute Indian country. *Oklahoma Tax Commission v. Citizen Band Potawatomi*, 498 U.S. 505, 511 (1991); see also, *United States v. Roberts*, 185 F.3d 1125, 1131 (10th Cir. 1999), *cert. den'd Roberts v. United States*, 529 U.S. 1108 (2000). A tribe's territorial sovereignty extends to those areas recognized as being within the tribe's Indian country. *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520, 527 n. 1 (1998). "Generally speaking, primary jurisdiction over land that is Indian country rests with the Federal Government and the Indian tribe inhabiting it, and not with the States." *Id.*

The subject property is located within Cherokee County, Oklahoma within the treaty boundaries of the Cherokee Nation as defined by the terms of the Treaty of New Echota, entered into on December 29, 1835 (7 Stat. 478). The 1835 Treaty provided that the Cherokee Nation relinquish all land east of the Mississippi River in exchange for land in Oklahoma and Kansas. By the terms of the Treaty of July 19, 1866 (14 Stat. 799), all land in Kansas and 6 tracts in Oklahoma were sold. Since the cessions of 1866, the Cherokee Nation boundaries set by the 1835 Treaty, which comprise all or a portion of 14 counties in eastern Oklahoma, have not changed. The Bureau has consistently recognized this area as the "former reservation" of the CN. The interest of the CN in its former reservation is well established. In *United Keetoowah Band v. Secretary*, No 90-C-608-B (N.D. Okla. Order May 31, 1991), the court stated "the Secretary of the Interior, or his designee, has determined that the subject lands of the old Cherokee Reservation are under the jurisdiction of the new Cherokee Nation, not the UKB." In *Buzzard v. Oklahoma Tax Commission*, No. 90-C-848-B, (N.D. Okla. Feb. 24, 1992), *aff'd* 992 F.2d 1073, 1075 n. 5 (10th Cir. 1993), *cert. den'd sub nom United Keetoowah Band of Cherokee Indians v. Oklahoma Tax Commission*, 510 U.S. 994 (1993), the court held that the UKB had "failed to show any treaty or Congressional act establishing UKB's inherited right or claim to reservation land within the boundaries of the old Cherokee Indian Reservation." In *United Keetoowah Band v. Mankiller*, No 92-C-585-B (N.D. Okla. Order January 27, 1993), *aff'd* 2 F.3d 1161 (10th Cir. 1993), the court stated "this court has previously decided that the Cherokee Nation is the only tribal entity with jurisdictional authority in Indian Country within the Cherokee Nation." The CN has enacted laws to regulate the activities of Indians occurring on Indian country within the jurisdiction of the Nation. These laws include, but are not limited to, gaming, tobacco and taxation laws and regulations. The Region consulted the CN as part of

its notice to political subdivisions and interested parties and pursuant to Section 101(e) of the Interior and Related Agencies Appropriations Act, 1999, *P.L. 105-277*. Having reviewed the CN's Comment Letter and the UKB's Reply thereto (in response to IBIA proceedings in UKB appeal of the 2006 Decision), it is clear that both the UKB and the CN would assert jurisdiction over the subject property if it were taken in trust. The UKB's Land into Trust Application stated:

Acquiring the land in trust will only confirm the jurisdiction of the UKB over these parcels of land, and the UKB is fully prepared to exercise such jurisdiction.

The CN's July 6, 2005, Comment Letter stated:

[T]he Department and the courts consistently have held that the Cherokee Nation has exclusive sovereign authority over Indian country within the boundaries of the Cherokee Nation Reservation. Because the 76-acre tract lies within the boundaries of the Cherokee Nation Reservation, if it is placed into trust it would become Indian country under the jurisdiction of the Cherokee Nation.

In its November 5, 2005, Reply to the CN's Comment Letter, the UKB did not deny the potential for jurisdictional conflicts.

The Region twice previously concluded that the potential for jurisdictional problems between the Cherokee Nation and the UKB is of utmost concern and weighed heavily against approval of the acquisition. However, in his 2009 Decision, as modified by his 2010 Decision, the Assistant Secretary concluded that the Cherokee Nation does not have exclusive jurisdiction within the former Cherokee reservation, and that the UKB would have exclusive jurisdiction over land that the United States holds in trust for the UKB. The Assistant Secretary further stated that the Region's conclusion that there would be problematic conflicts of jurisdiction between the CN and the UKB was premised on the conclusion that the CN has exclusive jurisdiction over its former reservation. However, the Assistant Secretary stated that 25 U.S.C. § 476(f) mandates that the "department or agencies of the United States shall not ... make any decision or determination pursuant to the IRA, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes." The Assistant Secretary stated that this section of the IRA "prohibits the Department from finding that the UKB lacks territorial jurisdiction while other tribes have territorial jurisdiction," and concluded that "the UKB, like Cherokee Nation, possesses the authority to exercise territorial jurisdiction over its tribal lands."

As the Bureau office closest to tribal affairs in northeastern Oklahoma, the Eastern Oklahoma Region remains concerned that jurisdictional conflicts will arise between the UKB and the CN if property is placed into trust for the UKB within the former reservation boundaries of the Cherokee Nation. However, the Assistant Secretary concluded in his 2009

Decision that “the perceived jurisdictional conflicts between the UKB and the CN are not so significant that I should deny the UKB’s application.” The Assistant Secretary’s findings and conclusions on this issue are binding on the Region.

(g) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs (BIA) is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

The land proposed for trust acquisition is within the jurisdictional boundaries of the Bureau’s Eastern Oklahoma Region. The Secretary has determined that the lands within the former treaty boundaries of the Cherokee Nation are the Cherokee Nation’s service area for purposes of administering Bureau programs under Indian Self-Determination and Education Assistance Act, *P.L. 93-638*, as amended. The Cherokee Nation administers the program functions associated with the management of trust lands formerly provided by the Bureau’s Tahlequah Agency and Eastern Oklahoma Regional Office through a Self-Governance Compact pursuant to 25 U.S.C. § 458aa, et seq. These programs include, but are not limited to, real estate services and tribal court services, as well as law enforcement services. As a result of the Bureau’s Self-Governance Compact with the Cherokee Nation, the Bureau agency with jurisdiction over Bureau programs within the treaty boundaries of the former Cherokee Nation—the Tahlequah Agency—was closed and the funds used to operate that agency, along with Regional Office funds utilized for direct services to the Cherokee Nation and all Indians within that area (regardless of tribal affiliation), were transferred to the Cherokee Nation Compact. There are no remaining direct service funds in the Region that have not been previously provided to the Cherokee Nation in its Self-Governance Compact. Although the Cherokee Nation has numerous full time employees available to provide Bureau services, the UKB would likely reject the authority of the Cherokee Nation employees and insist that the Region provide Bureau direct services as it has done in the past with respect to other Bureau services, e.g., processing of fee-to-trust acquisitions.

The Assistant Secretary stated in his 2009 Decision, that the former Assistant Secretary had stated in his April 5, 2008 Directive that the duties associated with this trust acquisition would not be significant and that the Region should either substantiate its decision or conclude that the BIA could discharge its duties. The Region’s prior decisions stated that the acquisition of the subject property into trust would create a need for Bureau law enforcement services, tribal court services, and realty services, and that the Region had no funds in its budget to provide these services. The Region again expresses its concern that the Region will not have the necessary funds to discharge the duties that will arise as a result of this acquisition. However, the Assistant Secretary has previously rejected this concern as unsubstantiated and insignificant. In his 2009 Decision, the Assistant Secretary stated: “Because the [former] Assistant Secretary found [in his 2008 Directive that] the BIA could discharge the duties associated with this trust acquisition and because the Regional Director has not substantiated her decision, the [former] Assistant Secretary’s finding stands.” Therefore, consistent with the Assistant Secretary’s 2008 Directive and 2009 Decision, the BIA can discharge its duties in connection with this acquisition.

(h). The extent to which the applicant has provided information that allows the Secretary to comply with 516 DM 6, Appendix 4, National Environmental Policy Act Revised Implementing Procedures, and 602 DM2, Land Acquisitions: Hazardous Substances Determinations.

The Assistant Secretary in his 2009 Decision directed the Region to complete the Exception Checklist for BIA Categorical Exclusion (CE) for the proposed acquisition. The Region found that the property proposed for acquisition was being developed and was under construction according to a Master Plan established for the property, so the Categorical Exclusion could not be applied at the time. The Assistant Secretary's January 21, 2011 Letter to the UKB urged the Region to make further inquiries into whether any change in land use is planned for the parcel. Following the January 21, 2011 Letter to the UKB, the Region again made inquiries, conducted a site visit to the property and found that the construction at the site was substantially complete. Further, the Region found that at this time there is no evidence to indicate that any change in land use is planned for the subject property. Accordingly, the CE was completed, and the Region finds that this CE is correct for this action and exempts the proponent of the action from preparing an environmental assessment to comply with the National Environmental Policy Act (NEPA) of 1969, as amended, and complies with both NEPA and 59 IAM 3-H, the BIA NEPA Handbook.

9. §151.11 – Off-reservation acquisitions

The subject property is located within the former reservation of the Cherokee Nation. In his 2008 Decision, the Assistant Secretary concluded that the UKB is a successor in interest to the "historic Cherokee Nation." In his 2010 Decision, the Assistant Secretary withdrew his conclusion concerning the status of the UKB as a successor in interest to the "historic Cherokee Nation," stating that his prior conclusion on this issue was unnecessary for purposes of his decision. Regardless, in his 2009 Decision, the Assistant Secretary found that he need not decide whether this is an on-reservation or off-reservation acquisition because the result is the same under both analyses. Because the interest of the UKB in the "historic Cherokee Nation," if any, has not been finally determined, we have considered herein the off-reservation factors.

The UKB has no land in trust and no reservation other than the interest that it claims in the "historic Cherokee Nation." Therefore, the Region finds that 25 C.F.R. §151.11(b) is inapplicable to this acquisition. Section 151.11(c) is also inapplicable because the subject property is not being acquired for a business purpose. The Region complied with 25 C.F.R. §151.11(d) with its letters to state and local governments dated February 28, 2005. The jurisdictional issues raised by the CN have been addressed in paragraph 8(f) above. In accordance with the Assistant Secretary's 2009 Decision and consistent with our discussion above in paragraph 8(f), the Region finds that the issues raised by the CN do not preclude the approval of this acquisition.

In accordance with the decisions issued by the Assistant Secretary dated June 24, 2009, July 30, 2009, and September 10, 2010 and the January 21, 2011 Letter to the UKB, the Region's review and evaluation of the amended request and supporting documentation reveal that regulatory and statutory authority for the acquisition of the property in trust for a tribal corporation exists in 25 C.F.R. §§151.3(a)(2) and (3) and Section 3 of the Oklahoma Indian Welfare Act, 25 U.S.C. § 503.

Additionally, the Region has applied the categorical exclusion checklist consistent with the Assistant Secretary's 2009 Decision and finds that the acquisition qualifies for a categorical exclusion. The Assistant Secretary and the Region have considered all relevant factors of 25 C.F.R. Part 151. The property is located in Cherokee County, Oklahoma, within the former reservation of the Cherokee Nation and is sought for a stated purpose that is not illegal or in conflict with existing land use. There would be a minimal and inconsequential loss of tax revenue to Cherokee County if this land were taken into trust. Jurisdictional problems and potential conflicts of land use may arise between the UKB and the CN concerning the jurisdiction over property held in trust for the UKB Corporation, however, the Assistant Secretary found that these potential conflicts do not limit his ability to take the property in trust for the UKB Corporation. Based on the above discussion, the Region approves the amended trust acquisition request for the UKB Corporation, contingent upon the UKB meeting the title requirements identified in the Region's Letter to the UKB dated February 23, 2011, which is attached hereto and incorporated herein by reference prior to closing.

This decision may be appealed to the Interior Board of Indian Appeals, U.S. Department of the Interior, 801 N. Quincy St., Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed.) Your notice of appeal to the Board must be signed by you and must be mailed within 30 days of the date you receive this decision. The date of filing your notice of appeal is the date it is postmarked or the date it is personally delivered to this office. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. Copies of the notice of appeal must be sent to (1) the Assistant Secretary – Indian Affairs, 4140 MIB, U.S. Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, (2) each interested party known to you, and (3) this office. The notice of appeal sent to the Board of Indian Appeals must certify that copies have been sent to these parties.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing a notice of appeal.

Should there be any questions, contact this office at (918) 781-4600.

Respectfully,



Acting Regional Director

Certified Mail – Return Receipt

cc: Oklahoma Tax Commission
Mayor of the City of Tahlequah
Chief of Police, City of Tahlequah
Cherokee County Assessor
Cherokee County Treasurer
Sheriff of Cherokee County
Board of County Commissioners of Cherokee County
Honorable Chadwick Smith, Chief, Cherokee Nation
Deputy Director, Field Operations
Tulsa Field Solicitor
Director, BIA