

INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

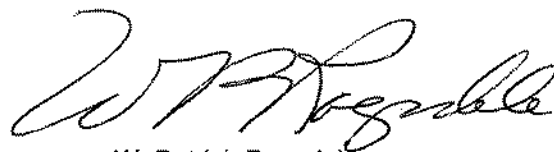
DOCUMENT IDENTIFICATION NUMBER NPM-TRUS-11	3. SUBJECT/TITLE Purchase of Surface and Mineral Interests using Indian Land Consolidation Program Funds	RELEASE NUMBER 91
FOR FURTHER INFORMATION Indian Land Consolidation Center, BIA		DATE JAN 03 2007

EXPLANATION OF MATERIAL TRANSMITTED:

Pursuant to the 130 DM 3.4, the Indian Land Consolidation Center is responsible for establishing land consolidation polices, providing technical advice and assistance to Regions with regard to the implementation of the land acquisition program. The Center is also responsible to provide oversight, direction, monitoring and program evaluation for the Indian Land Consolidation Program.

Attached is a policy concerning the land consolidation program that is effective as stated in the memorandum. The attached policy applies only to land sale transactions involving the Indian Land Consolidation Program pursuant to the 1983 authority of The Indian Land Consolidation Act, as amended in 2000 and 2004. Please assure that the appropriate Agency Superintendent, BIA and contract staff receive a copy of the policy (policies) and implement them immediately.

Please direct any questions to the Indian Land Consolidation Center at (715) 682-0310.



W. Patrick Ragsdale
Director, Bureau of Indian Affairs

FILING INSTRUCTIONS:

Remove: None

Insert: NPM-TRUS-11 (New)



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240



National Policy Memorandum

Bureau of Indian Affairs
Director

Number: NPM-TRUS-11
Title: Purchase of Surface and Mineral Interests Using ILCP Funds

Effective: JAN 03 2007
Expires: JAN 03 2008

1. Purpose

The purpose of this policy is to establish criteria for the Indian Land Consolidation Program (ILCP) to purchase interests in trust or restricted land where there has been a Title separation of surface and subsurface ownerships on title.

In April 2003, the Bureau of Indian Affairs (BIA) established the Indian Land Consolidation Center (ILCC) to provide policy guidance, establish procedures and manage ILCP as it was expanded nationally. Section 213 of Pub. L. 108-374, the American Indian Probate Reform Act of October 27, 2004 (118 Stat. 1773), amended by Pub. L. 106-462, the Indian Land Consolidation Act of November 7, 2000 (114 Stat. 1991), made the Indian Land Consolidation program (ILCP) permanent. The ILCC is to lead the efforts to purchase undivided fractional interests (both surface and subsurface) in trust or restricted lands from willing sellers at the discretion of the Secretary of the Interior (hereafter Secretary).

The Secretary has the authority to acquire fractionated ownership interests in trust or restricted lands from individual landowners.

In the late 1800's and early 1900's the Federal Government, either through treaties or various statutes, the most important being the General Allotment Act, granted to individual Indians parcels of land for their sole use. In the majority of the cases of the land title transferred to the individual consisted of both the surface and subsurface resources. (Ref: Tracts identified in the Trust Assets Accounting Management System (TAAMS) with the resource code of "Both.")

Subsequent ownership changes occurring, either through probates and/or various land interest conveyances, have succeeded in dividing the ownership of the surface and subsurface interest into separate distinct tracts. This was accomplished by including a reservation clause exempting a surface or mineral interest in the conveyance instrument or by Will of the decedent giving title to the surface and subsurface to different heirs. The result is a change in how information in title and ownership on title is reflected in TAAMS. Tracts which were once identified as "Both", containing surface and subsurface (mineral) interest, are now separated into a surface tract with accompanying ownership information (identified as "Surface" in TAAMS) and a subsurface (mineral) tract with similar accompanying ownership information (identified as "Mineral" in TAAMS).

The valuation of a "tract" normally would, through the "comparative sales approach to value", include the value of the surface and any underlying minerals beneath that tract. If valued through the "income approach to value", the tract value would include a surface value and a nominal value for minerals.

Nominal value is defined as a value ranging from zero to what is sufficient to encourage a transfer of the whole interest, also known as "transaction value". The nominal value is determined administratively but the basis of that determination is the content of a mineral assessment of the general geography of the subject area. When producing an inventory for a potential seller through an automated system, the tracts involved in that inventory are printed individually i.e.: (title information is provided which includes title documents of "Both", "Surface", and/or "Mineral").

When valuing a tract using an automated valuation module (AVM) titles can be "Both", "Surface" only, or "Mineral" (subsurface) only and, the system applies a calculated value per tract based on its proportional share of the total value of the tract. It is not practical nor reasonable to extract a value from the surface tract value and apply it as the subsurface tract value. The subsurface tract ("Mineral") shall be given a nominal value where appropriate as determined by the Office of Minerals Evaluation (OME) or by the BLM through a mineral report.

2. Scope

This policy applies to the following seven BIA Regional Offices: Navajo, Midwest, Great Plains, Western, Northwest, Eastern Oklahoma, and Rocky Mountain.

3. Policy

An individual landowner's inventory will indicate to the owner how title for all Indian trust and restricted land is shown in the official Bureau of Indian Affairs Title Record System (TAAMS). If the information in TAAMS indicates that a surface tract and a subsurface(mineral) tract exists for the same description, that title information will not be combined for the purposes of expedience, nor will the value of each tract be combined. The value paid for each tract, surface or subsurface (mineral) is to remain separate and recorded separately under the lien tracking system in use.

In summary, the surface and subsurface (mineral) acquisition policy for the ILCP policy as to acquisition is as follows:

- 1) If the tract resources are listed as (Both) for both title to surface and subsurface (mineral) interest, ILCO policy is to NOT split title through acquisition, therefore:
 - a) ILCP may purchase the tract if OAS has provided a value of the entire tract (where OAS has utilized either a comparable sales or income approach to value, both techniques include an assumption of nominal value for minerals); or
 - b) OAS has utilized a mineral potential assessment or mineral appraisal report to determine mineral value.
- 2) If the tract's resources are listed as ("Minerals") which is subsurface interest only, ILCP will not purchase until the subsurface value is determined either through OME or BLM.
- 3) If the tract resources is listed as ("Surface") for surface interest only, ILCP may purchase this tract utilizing a value indicated in the OAS market analysis or appraisal. Mineral information or title is not required.

4. Roles and Responsibilities

Director, Bureau of Indian Affairs (BIA). The director is responsible for the development of National Policy affecting Indian Lands.

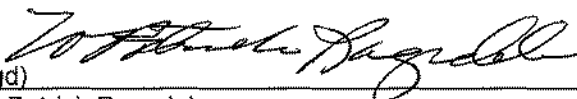
Director, Indian Land Consolidation Center. The ILCC Director is responsible for coordinating the Bureau's nationwide program to consolidate fractional interest in Indian lands pursuant to statutory requirements

Deputy Director, Field Operations, BIA. The BIA Deputy Director of Field Operations is responsible for overseeing the Regional Directors and disseminating policy to them.

Deputy Director, Trust Services, BIA. The BIA Deputy Director of Trust Services is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.

Regional Directors, BIA. The BIA Regional Directors are responsible for carrying out policy as directed and for overseeing the implementation of policy either directly or via Agency Superintendents

5. Approvals



(sgd)

W. Patrick Ragsdale
Director, Bureau of Indian Affairs

1-03-07

Date