



United States Department of the Interior

Office of the Assistant Secretary - Indian Affairs

Washington, DC 20240

Fact Sheet and Q&A:

Jan. 27, 2023

Notice of Fee-to-Trust Acquisition for the Tohono O'odham Nation Far West Valley Site Maricopa County, Arizona

Decision:

- On January 24, 2023, the Assistant Secretary – Indian Affairs made a final agency determination to acquire in trust 110.34 acres in Maricopa County, Arizona under the Gila Bend Reservation Replacement Act (Gila Bend Act) for gaming and other purposes.

Background:

- On March 14, 2022, the Tohono O'odham Nation (Nation) submitted a request to the Department of the Interior (Department) for the acquisition in trust of approximately 110.34 acres of land located in Maricopa County, Arizona, known as the Far West Valley Parcel (Far West Valley Site or Site) for gaming and other purposes
- Acquisition of the Site in trust is mandatory under the Gila Bend Reservation Replacement Act (Gila Bend Act), if it meets certain conditions
- The Gila Bend Act authorized the Nation to purchase private lands, not to exceed 9,880 acres in the aggregate, to replace flooded reservation lands and that upon request of the Tribe, the Secretary shall hold in trust for the benefit of the Nation if the land is within the counties of Maricopa, Pinal, and Pima, Arizona, not within the corporate limits of any city or town, and if it constitutes not more than three separate areas consisting of contiguous tracts (later increased to 5 as permitted in the Act).
- The Nation's proposal consists of the following: (1) The Department's acquisition of the Far West Valley Site in trust for the Nation pursuant the Gila Bend Act, a determination that the Site is reservation land for all purposes because it was acquiree under the Gila Bend Act, and a determination that the Site is eligible for gaming pursuant to Section 2719 (b)(1)(B)(i) (settlement of a land claim exception) of the Indian Gaming Regulatory Act (IGRA).
- A Federal appeals court (Ninth Circuit COA) determined in *Arizona v. Tohono O'odham Nation*, 818 F.3d 549, 557-558 (9th Cir. 2016), that lands taken into trust under the Gila Bend Act qualify for IGRA's settlement of a land claim exception. The Far West Valley Site will be eligible for gaming under the land claim exception after it is acquired in trust.
- On February 17, 2022, the Nation submitted a separate application for trust acquisition of the Painted Rock Property consisting of approximately 3790.36 acres, under the Gila Bend Act for non-gaming purposes. The Regional Director, exercising authority delegated by Secretarial Order 3400, transferred the Painted Rock Property into trust on December 21, 2022. The Assistant Secretary's Decision properly included the Painted Rock Property in the analysis of the Gila Bend Act but incorrectly identified the Painted Rock Property as a *pending* application.

Q&A

Question: Does the publication of the Notice of Land Acquisition in the *Federal Register* mean that the Department has approved the Nation's application to take land in trust?

Answer: Yes. The Nation's fee-to-trust application has been favorably reviewed and meets all applicable legal requirements.

Question: What NEPA review process is applicable to this acquisition?

Answer: Because this is a mandatory acquisition under the Gila Bend Act, NEPA does not apply because the NEPA process is intended to inform the Secretary's discretion. Here the Secretary's discretion is not implicated because the Gila Bend Act mandates that the land be acquired in trust after the Nation meets certain conditions, which it has.

Question: Can the Nation conduct gaming at the Far West Valley Site now?

Answer: Yes. The Department determined that the Far West Valley Site is eligible for gaming pursuant to the "settlement of a land claim" exception of Section 20 of Indian Gaming Regulatory Act, 25 U.S.C. § 2719 (b)(1)(B)(i).

Question: Is there opposition for the Proposed Project?

Answer: No. There is no opposition to the Nation acquiring land into trust.