

# INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

DOCUMENT IDENTIFICATION NUMBER 51 IAM 4	SUBJECT	RELEASE NUMBER #12-19
FOR FURTHER INFORMATION BIA Land Titles and Records Office (LTRO)	<b>Examination and Certification of Land Title</b>	DATE <b>APR 30 2012</b>

## EXPLANATION OF MATERIAL TRANSMITTED:

This policy applies to the examination and certification of title to Indian trust and restricted lands under the jurisdiction of the BIA. The examination of title to Indian trust and restricted lands includes the examination of the chain-of-title for the Indian lands and all title documents that convey or encumber ownership of Indian lands, or that describe or locate Indian lands or divisions thereof, and are approved by a properly delegated Federal official at: a BIA Agency or field office, Regional office, or Central office; the Office of Hearings and Appeals; or at another appropriate Federal office.

*for*   
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Michael Black  
Director, Bureau of Indian Affairs

## FILING INSTRUCTIONS:

Remove: None

Insert: 51 IAM 4

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- 4.1 Purpose.** The purpose of examining title to Indian trust and restricted lands is to determine the location and boundaries of the land, the identification of individuals and entities who own rights and interests in the land, the amount of the rights and interests, and whether the rights and interests are encumbered, and the extent and holder of the encumbrance. The purpose of certifying the examination of land title is to provide an official Federal report of land title status that is certified as complete, accurate, and up-to-date, as of the date of certification of the Title Status Report (TSR).
- 4.2 Scope.** This policy applies to the examination and certification of title to Indian trust and restricted lands under the jurisdiction of the Bureau of Indian Affairs (BIA). The examination of title to Indian trust and restricted lands includes the examination of the chain-of-title for the Indian lands and all title documents that convey or encumber ownership of the Indian lands, or that describe or locate Indian lands or divisions thereof, and are approved by a properly authorized Federal official at: a BIA Agency or field office, Regional office, or Central office; the Office of Hearings and Appeals; or at another appropriate Federal office.
- 4.3 Policy.** The BIA Division of Land Titles and Records (DLTR), Land Titles and Records Office (LTRO) is the office of record for the recording of Indian land title documents, for the maintenance of the chain-of-title, and the examination, reporting, and certification of land title for Indian trust and restricted lands. It is the policy of Indian Affairs to maintain Indian land title in a current certified title status at all times. It is the duty and responsibility of the DLTR-LTRO to ensure that the chains-of-title for Indian trust and restricted lands are current, accurate, and complete, and to certify the Federal reports of the title status as true and correct. In order to maintain land title for Indian trust or restricted land in a current certified title status the land title must be recertified after completing the examination and entry of a conveyance title document into the Trust Asset and Accounting Management System (TAAMS), the official Federal land title system of record, and applying the conveyance to update the land title ownership in TAAMS. The Certifying Officer for Indian title status is the Manager, Land Titles and Records Office, or a person designated by the Manager, or a properly authorized or delegated Federal official. The Certifying Officer for Indian title status will certify the status of title to Indian lands described in report as true and correct according to the official Federal land records recorded and maintained in the LTRO.
- A. Title Status Report (TSR).** The TSR reports the certified status of land title for tracts of Indian trust or restricted lands by describing the location of the tract, by stating whether the title to the tract is current, complete, correct, and without defect, by stating whether the sum total of the ownership interests is in unity, by listing the owner(s) of the tract and the fractional ownership interest(s) of the owner(s) including the type of estate and fractional amount of the ownership interest(s), and by listing the encumbrance(s) on ownership including the type of encumbrance and the extent that the ownership is encumbered. The TSR may report the status of title for all ownership of a tract or it may report the status of title for an individual owner of a of

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- interest(s) in the tract. The TSR will be reported for permanent storage in TAAMS and will be in effect until superseded by a subsequent TSR.
- B. Probate Inventory Report (BIAINV or INV).** The INV reports the certified status of title of tract(s) of Indian trust or restricted land(s) owned by an Indian individual at the time of his or her death.
- C. Land Status Map (LSM).** The LSM is a TSR report of certified title status in a spatial map format report. In its most basic form, the LSM delineates the boundary of a tract of Indian trust or restricted land and represents the ownership of the tract in a graphical or symbolic form. The LSM may also delineate the boundary of any encumbrance on title ownership and cite the encumbrance in a tabular or graphical form. An LSM may include or represent one or more tracts of land, or an LSM may include all tracts within a described area of land (e.g., PLS section or township, or part or all of an Indian reservation, etc.).
- D. Certification of Title Status or Certified Title Status.** The status of title to Indian trust or restricted lands is certified as true and correct by a Certifying Officer for Indian title status, which is the LTRO Manager, or a person designated by the Manager, or a properly authorized or delegated Federal official. Title to Indian trust or restricted land must be maintained in a current certified title status, and the title must be recertified after completing the examination and entry of a recorded conveyance title document into TAAMS and applying the conveyance to update the land title ownership. An exception would be a conveyance containing or creating a critical or substantive title defect. *See*, 51 IAM 2.3. In such cases the land title would be entered and reported as defective in TAAMS and a certified TSR reporting the defective land title could be issued and be in effect until corrective action cured the title defect and a subsequent TSR issued for the tract. When the title status is recertified after a conveyance of title ownership a new certified TSR will be issued and the Certification Date in TAAMS and on the TSR will show the date the TSR was certified.
- E. Verification of Title Status or Verified Title Status.** If the LTRO receives a request to verify title status to report encumbrances recorded after the Certification Date, then the LTRO will examine the last/most recent conveyance to verify that there were no defects in the conveyance, verify that there were no conveyances after the Certification or Verification Date, and verify that encumbrance title documents were recorded after the Certification Date. The LTRO will issue a new TSR that reports the recent encumbrances and shows a new Verification Date in TAAMS and on the new TSR. The Certification Date on the new TSR and in TAAMS will not change when title status is verified.
- F. Certification/Verification of Title Status for Mortgage Purposes.** If a TSR is requested for a mortgage case the LTRO will give the request for a mortgage TSR priority over other non-mortgage TSR requests. Further, the LTRO is authorized to transmit the certified TSR to the lender of record for the mortgage case and to the agency managing the mortgage case. Transmission of the TSR to the lender will be

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according to Federal laws, regulations, and rules, and the policies of the BIA and the Department, concerning the secure transmission of Federal and trust information and data. The issuance of subsequent TSR to report the existence of the completed and recorded mortgage on title will be a verification of title status.

Land title for all tracts of Indian trust or restricted land is maintained in a current certified or verified title status in the Trust Asset and Accounting Management System (TAAMS), the official Federal land title system of record, at all times.

#### 4.4 Authority.

- A. **Statutes.** In accordance with the Act of June 30, 1834 (4 Stat. 738; 25 U.S.C. 9). Act of July 26, 1892 (27 Stat. 272; 25 U.S.C. 5). Reorganization Plan No. 3 of 1950 approved June 20, 1949 (64 Stat. 1262). (Act of April 26, 1906 (34 Stat. 137); Act of May 27, 1908 (35 Stat. 312); Act of August 1, 1914 (38 Stat. 582, 598) deal specifically with land records of the Five Civilized Tribes.
- B. **Regulations.** Title 25 CFR Part 150.

#### 4.5 Responsibilities.

- A. **Director, Bureau of Indian Affairs (BIA)** is responsible for the development of National Policy affecting land title for Indian lands.
- B. **Deputy Bureau Director, Field Operations, BIA** is responsible for overseeing the Regional Directors and disseminating policy to them.
- C. **Deputy Bureau Director, Trust Services, BIA** is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- D. **Regional Directors, BIA** are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.

#### 4.6 Definitions.

- A. **Indian land** is an inclusive term describing all real property or land, including any interests, benefits, and rights inherent in the ownership of the land, held in trust by the United States for individual Indians or tribes, or all lands, titles to which are held by individual Indians or tribes, subject to Federal restrictions against alienation or encumbrance, or all lands which are subject to the rights of use, occupancy and/or benefit of certain tribes. For purposes of this part, the term Indian land also may include land for which the title is held in fee status by Indian tribes, and U.S. Government-owned land under BIA jurisdiction.
- B. **Tract of Indian land.** A tract of Indian trust, restricted, or fee land, consists of one or more parcels of land with the same ownership and a single boundary described by a survey, by metes and bounds, by aliquot parts of the Public Land Survey system, by a subdivision plat, or by another recognized legal land description method. A

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“parcel” of land is an area of land that has a single unique land description that differentiates the parcel of any other parcel.

- C. **Land Title Document or Title document** is defined as any document that conveys or affects the title to Indian land (e.g., patents, deeds, probate orders) or encumbers the ownership of Indian land (e.g., leases, rights-of-way or easements, etc.), or that describes or locates Indian lands or divisions thereof (e.g., Cadastral Surveys, Plats, subdivisions, etc.), and is approved by a properly delegated Federal official and required to be recorded by law, regulation, or Bureau policy.
1. **Physical original copy of a title document** is an original title document in the form of physical text, signatures, and graphical representations written or printed on paper, velum, linen, or other physical writing, printing, or graphical media. The physical original copy of a title document is the signed duplicate copy of the digital image original copy of the title document and/or the film media copy of the title document.
  2. **Digital image original copy of a title document** is an original title document in the form of digital images of text, signatures, and graphics in black and white, grayscale, or color digital representations of the digital title document or of the physical original copy or film media copy of a title document converted to a digital image format. The digital image format adheres to the official Federal document image format established by the National Archives and Records Administration (NARA). The digital image original copy of a title document is the signed duplicate copy of the physical original copy of the title document and/or the film media copy of the title document.
  3. **Film media original copy of a title document** is a copy of a title document in the form of microfilm, microfiche, or aperture card images of text, signatures, and graphics in a positive or negative image representation of the physical title document on a film media format. The film media format adheres to the official Federal document film media format established by the National Archives and Records Administration (NARA). A film media original copy of a title document becomes a duplicate original copy of the title document when the film media original copy of a title document is printed on paper and certified by the Land Titles and Records Office (LTRO) Manager or other properly authorized Federal official. The film media original copy of a title document is the signed duplicate copy of the digital image original copy of the title document and/or the physical original copy of the title document.
- D. **Signature or “signed”** means the physical written name or the digital written name of a person as themselves or as the official representative of an entity (commercial, financial, legal, or governmental) for the purposes of the following: the execution of a title document by the parties to the document, the Federal approval of a title document by a properly authorized Federal official, the certification of a duplicate original copy of a title document by the LTRO Manager or the Manager’s designated representative, or the certification by the LTRO Manager or the Manager’s designated

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- representative of a Federal report of title status, of the inventory of Indian land owned by a decedent at the time of death, or of a Federal map or spatial representation of land title status.
- E. Recordation or recording** is defined as the acceptance of a title document by the Land Titles and Records Office (LTRO), and the entry of the title document into the record of title as evidenced by the chain-of-title for the Indian land described in the title document. Recording a title document provides constructive notice of the existence of the title document and provides evidence of a transaction, activity, or event that affects title to Indian lands.
- F. Land Titles and Records Office** is defined as a field office of the Division of Land Titles and Records that is the Federal office-of-record responsible for the recording and custody of land title documents, and that maintains records that affect titles to Indian lands, examines titles of Indian land, and provides reports of land title status for Indian land and inventories of land owned by a decedent at the time of death.
- G. Trust Asset and Accounting Management System (TAAMS)** is the official Federal system of record for all land title and chains-or-title for Indian lands, for all original copies of Indian land title documents, for all data extracted from Indian land title documents, for all transactions that convey, encumber, describe, or locate Indian lands.
- H. Chain-of-Title** to Indian land is the succession of title ownership to Indian trust or restricted real property from the current land owner(s) back to the original owner, the United States of America. Chains of title include transfers of title by patents, deeds, probate orders, certificates of death of a joint tenant, judgments, foreclosures, and other recorded transfers or conveyances of the title ownership to Indian trust or restricted real property. A chain-of-title will also note or report encumbrances (e.g., liens, leases, etc.) on title ownership as part of the chain. For land owned in fee simple, Indian and non-Indian, title companies, attorneys, or professional title abstractors are responsible for examining the chain-of-title and providing a report of title status so that a purchaser or mortgage lender will be sure the title is clear of any claims. For Indian trust and restricted lands the Division of Land Titles and Records, Land Titles and Records Office is responsible for examining, reporting, and certifying the title status of Indian lands.
- I. Title examination or examination of title** is the process of reviewing and verifying the chain-of-title to determine whether the title is free and clear of any adverse claims to title and free of any title defects that would make the title unmarketable or non-transferable.
- J. Title Defect** is an error or mistake in a title document that affects the ownership of the real property, such as a mistaken identification of a land owner, a mistake in the calculation of an ownership interest, an inaccurate legal land description of the property, etc. Title defects in title documents on Indian trust and restricted lands are classified according to the level of defect: Fatal, Critical, Substantive, and

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Administrative. The level of defect determines the corrective action required to remove the title defect. *See*, 51 IAM 2.3.