

**BUREAU OF INDIAN AFFAIRS APPLICATION  
FOR TRUST PATENT**



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
PHOENIX AREA OFFICE  
P.O. BOX 10  
PHOENIX, ARIZONA 85001

TAK  
PRE  
AME

IN REPLY  
REFER TO:

Branch of Real Estate Services  
(602) 379-6781

Edward L. Hastey, State Director  
Bureau of Land Management  
California State Office  
2135 Butano Drive  
Sacramento, California 95825

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AUG 10 1998

Dear Mr. Hastey:

On behalf of the Chemehuevi Indian Tribe (Tribe) of the State of California, we are requesting that a trust patent be issued to the Tribe for the Tribe's reservation pursuant to the Indian Appropriation Act of March 1, 1907 (35 Stat. 1015, 1022), which in part amends the Mission Indian Relief Act (MIRA) of January 12, 1891 (26 Stat. 712). Although the United States has already recognized a compensable interest in the Tribe to the lands which it occupies, the Tribe wishes to have documentation of its equitable interest. In its August 20, 1990, legal analysis, the Phoenix Field Solicitor opined that the Secretary of the Interior has the authority to issue the Tribe a trust patent for its Reservation. Enclosed is a copy of the Phoenix Field Solicitor's August 20, 1990, opinion for your consideration in issuing the trust patent.

## HISTORY

The Act of January 12, 1891 (copy enclosed), was passed by Congress for the relief of the Mission Indians in the State of California. Under the Act, the Secretary of the Interior appointed "three disinterested persons as commissioners to arrange a just and satisfactory settlement of the Mission Indians residing in the State of California." The commissioners were authorized "to select a reservation for each band or village of the Mission Indians residing within" the said State.<sup>1</sup> The Secretary was further required to issue a patent for each of the reservations selected by the commissioners. The patents were to be held in trust by the United States for twenty-five years for the sole use and benefit of the band or village for whom the reservation was selected.

The Commission submitted its report to the Secretary of the Interior on December 7, 1891. The report was approved by the Secretary and the President of the United States on December 29, 1891.<sup>2</sup>

<sup>1</sup>On February 4, 1891, Secretary of the Interior John W. Noble appointed the commissioners. See enclosed copy.

<sup>2</sup>Smiley Commission Report and Executive Orders of December 29, 1891. This is commonly referred to as the Smiley Report. See enclosed copy.

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The report did not make a selection of reservation lands for the Chemehuevi Indians living along the Colorado River. However, the report did make a selection for the Chemehuevi Indians living at Twenty-nine Palms, California.

Within a few years of the filing of the Commission report, the Office of Indian Affairs became concerned that several tribes had not received all of the land in their "actual occupation and possession" as required by the MIRA. By letter dated December 1, 1897, Acting Commissioner of Indian Affairs, A. C. Toner, presented to the Secretary, the reports of U.S. Indian Agent Estudillo and Special Allotting Agent Patton on the need for more land by the tribes and that additional legislation was necessary in order to include in the several Mission reservations certain tracts of land occupied and cultivated by them. By letter dated January 10, 1898, the Secretary of the Interior forwarded the December 1, 1897, report and a draft bill amending the MIRA to the Senate Committee on Indian Affairs for their consideration. (See enclosed copy of Senate Document No. 54, 55<sup>th</sup> Congress, 2<sup>nd</sup> Session, January 11, 1898.) Legislation was not enacted at that time, but the Indian Office continued to monitor the situation on behalf of the California Indians.

Pursuant to the Indian Appropriation Act of March 3, 1905 (33 Stat. 1048, 1058), which, among other things, authorized the Secretary of the Interior to investigate the conditions of the California Indians. C. E. Kelsey was appointed Special Agent to the Commissioner of Indian Affairs and charged with conducting the investigation. On December 27, 1906, and January 3, 1907 (copies enclosed), Special Agent Kelsey issued reports on the condition of the Chemehuevi Indian Tribe residing in the Chemehuevi Valley along the Colorado River. In his report of January 3, 1907, Agent Kelsey reported on lands withdrawn for but not yet added to the Mission Indian Reservations. In regard to the Chemehuevi Indians, Agent Kelsey noted that the Chemehuevi Indians had lived in a certain area in the Chemehuevi Valley on the Colorado River since primeval times and he did not know why the land had not previously been withdrawn for their benefit. Agent Kelsey recommended the land be added to the Colorado River Indian Reservation or that other appropriate action be taken.

Pursuant to Agent Kelsey's reports, on January 31, 1907, the Acting Commissioner of Indian Affairs, C. F. Larrabee, wrote to the Secretary of the Interior requesting that he withdraw certain lands from settlement and entry for the use and occupancy of various Mission Indian Bands, including the Chemehuevi, pending action by Congress authorizing their addition to the various reservations. The letter described the land to be withdrawn for the Chemehuevi Indians as follows:

Chimehuevi (sic) Valley. - Fractional townships 4 N., R. 25 E., T. 4 N., R. 26 E., T. 5 N., 25 E., 6 N., 25 E., the E/2 of T. 5 N., R. 24 E., and Secs. 25, 26, 35 and 36, T. 6 N., R. 24 E., S.B.M.

On February 2, 1907 (copy enclosed), the Secretary of the Interior issued an order to the General Land Office directing that the land be withdrawn from settlement and entry. In the order, the Secretary noted the Department had submitted proposed legislation to Congress on January 31, 1907, to add the lands to the various reservations.

(3)

On March 1, 1907, Congress amended the MIRA. The Act provided in pertinent part that:

“ . . . section three of the Act approved January twelfth, eighteen hundred and ninety-one, entitled ‘An Act for the relief of the Mission Indians in the State of California’, be, and the same is hereby, so amended as to authorize the Secretary of the Interior to select, set apart, and cause to be patented to the Mission Indians such tracts of the public lands of the United States, in the State of California, as he shall find upon investigation to have been in the occupation and possession of the several bands or villages of Mission Indians, and are now required and needed by them, and which were not selected for them by the Commission as contemplated by section two of said Act, . . . .”

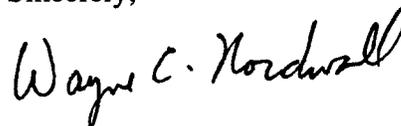
Pursuant to the above amendment, trust patents were issued for lands that were withdrawn by the Secretary’s order of February 2, 1907.<sup>3</sup> The only reservation named in the Secretary’s order for which no patent was issued was the Chemehuevi Indian Reservation.

### TRUST PATENT

The Bureau of Indian Affairs has been unable to find any documents explaining why the Chemehuevi Reservation was not patented when the other reservations on Agent Kelsey’s list were, i.e., shortly after passage of the 1907 amendment. It is evident that the Department and the Congress considered the Chemehuevis as Mission Indians for purposes of the 1907 amendment to the MIRA. Since the Phoenix Field Solicitor has opined that there is no present legal impediment to issuing a trust patent, we request that a trust patent be issued in favor of the Chemehuevi Indian Tribe for the land as described in the February 2, 1907, Secretarial order. For your assistance, we have drafted a trust patent for the Chemehuevi Indian Reservation.

If you have any questions or if you need further information in order to issue the trust patent, please do not hesitate to call me at 602-379-6600 or our Branch of Real Estate Services at 602-379-6781.

Sincerely,



Area Director

Enclosures

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<sup>3</sup>As an example and for your information, enclosed are copies of trust patents issued to the Agua Caliente and La Guna Bands on January 5, 1911, and April 5, 1911, respectively. The patents were drafted in conformity with the 1907 amendment.