

**CONTIGUITY:
WHEN IS CLOSE,
CLOSE ENOUGH?**

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The Indian Reorganization Act was passed in 1934 giving the Secretary of the Interior the right to take land into trust for Indians.

“Section 5: The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights of lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing lands for Indians.”

*120a.3(a)(1): Subject to the provisions contained in the acts of Congress which authorize land acquisitions, land may be acquired for a tribe in trust status (1) when the property is located within the exterior boundaries of the tribe's reservation **or adjacent thereto**, or within a tribal consolidation area.*

COMMENTS ON REVISED 151:

The Department grouped the majority of the general comments under the following categories:

- (1) Afford state and local governments a virtual veto power over tribal governments;
- (2) Promote a “guardian-ward” relationship between the United States and the tribes, rather than the preferred “government-to-government” relationship; and
- (3) Force tribes to divert their limited resources into “unnecessary” efforts aimed at regulatory compliance;
- (4) Be inconsistent with the federal trust responsibility to Indian tribes, and
- (5) Further complicate an already cumbersome and time-consuming process by placing tribal interests lower than those of state and local governments.

CURRENT IBIA CONTIGUITY RULINGS:

“At a minimum, lands must touch.”

Clarification: The fact that a highway easement separates the actual land surfaces of the parcels does not render them any less contiguous.

Caveat: The BIA can't assume the existence of a highway separating two parcels is irrelevant (i.e., does not necessarily make the parcels contiguous).

Further Clarification: The parcels do not have to have the entire boundary length contiguous.

CASES:

- + 2007 – County of Sauk (45 IBIA 201) +
- + 2008 – Jefferson County (47 IBIA 187) +
- + 2014/2016 – Desert Water Agency cases (59 IBIA 119 and 63 IBIA 127) +
- + 2013/2016/2018: County of San Diego (58 IBIA 11) +

Trust Lands

County Right of Way

State Highway

County Right of Way

Acquisition Parcel



SOURCE: Microsoft aerial photograph, 5/8/2010;
Santa Barbara County GIS Data, 2012; AES, 2014

Santa Ynez Band of Chumash Indians 2.11-Acre Property Overview ■

Figure 2
Site and Vicinity