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United States Government Accountability Office
Washington, DC 20548

October 20, 2006

The Honorable Conrad Burns
Chairman
The Honorable Byron L. Dorgan
Ranking Minority Member
Subcommittee on Interior and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Charles H. Taylor
Chairman
The Honorable Norman D. Dicks
Ranking Minority Member
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
House of Representatives

Subject: *Indian Issues: BLM's Program for Issuing Individual Indian Allotments on Public Lands Is No Longer Viable*

Beginning in the late nineteenth century the federal government began an effort to assimilate Indians by transferring them from communal tribal existence to individual land ownership. The Act of February 8, 1887, commonly referred to as the General Allotment Act, initiated the federal government's Indian allotment policy.¹ The act authorized the President to allot parcels of land to individual Indians—generally in sizes of 40, 80, or 160 acres—on Indian reservations and on public lands. The act was implemented by the Department of the Interior's (Interior) Bureau of Indian Affairs (BIA) and Bureau of Land Management (BLM).² Under this authority, BIA issued millions of acres of individual allotments on Indian reservations, and BLM issued thousands of acres of individual Indian allotments on public lands. However, in 1934, the Indian Reorganization Act largely reversed the federal government's Indian allotment policy and replaced it with a policy that encouraged tribal self-governance.³ Section 5 of the Indian Reorganization Act also provided the Secretary of the Interior new authority to acquire land, on and off reservations, on behalf of federally

¹Act of February 8, 1887, ch. 119, 24 Stat. 388 (1887) (codified as amended at 25 U.S.C. § 331, et seq.).

²At the time of the act, BLM did not exist. Its predecessor, the General Land Office, was the entity that implemented the act from 1887 to 1946. In 1946, the General Land Office was merged with another federal agency, the U.S. Grazing Service, to form BLM within Interior.

³Act of June 18, 1934, ch. 576, 48 Stat. 984 (1934) (codified as amended at 25 U.S.C. §§ 461-479).

recognized tribes or their members. While the Indian Reorganization Act ended BIA's authority to issue allotments on Indian reservations, it did not address BLM's authority to issue allotments on public lands. Almost 120 years after the 1887 General Allotment Act, BLM still retains that authority and questions have been raised about the continued need for it.

A number of public land laws and other federal actions over the past 75 years have affected BLM's Indian allotment program, generally limiting the land available for allotment. The Act of June 28, 1934, commonly referred to as the Taylor Grazing Act, authorized the Secretary of the Interior to establish up to 80 million acres of grazing districts in "vacant, unappropriated, and unreserved lands" and authorized the classification of those lands.⁴ In classifying land, BLM must examine the land to determine whether it is more valuable or suitable for disposal under a public land law (e.g., as an Indian allotment) than for retention in federal ownership for management purposes. In 1976, the Federal Land Policy and Management Act reoriented BLM from a land disposal to a land management organization.⁵ Under the act, "public lands [are to] be retained in Federal ownership, unless as a result of the land use planning procedure ... it is determined that disposal of a particular parcel will serve the national interest."

Under BLM's current regulations and policies for the Indian allotment program, those applying for Indian allotments on public lands must identify the land on which they wish to settle and file an application, including certification of Indian eligibility, with the local BLM office.⁶ Applications must include an economic plan for developing the land. BLM reviews the applications and classifies the land requested if necessary. If approved, applicants have a 2-year period to demonstrate their ability to sustain themselves and their families on the land—a process referred to as "proving-up." BLM must periodically monitor applicants during this period to ensure they are complying with their obligations. If applicants successfully complete this 2-year period, BLM issues them a patent, or title, to the land, which is held in trust status. Trust status means that the federal government holds title to the land in trust for tribes or individual Indians and the land is no longer subject to state and local property taxes and zoning ordinances.

BIA and the Interior Board of Land Appeals (IBLA) also play a role in this process. BIA must certify that those applying for Indian allotments are eligible, meaning that they are "... a recognized member of an Indian tribe or [are] entitled to be so recognized." In addition, BIA is responsible for managing all trust lands, including Indian allotments. BIA has a range of responsibilities over these lands, including probate and real estate services. The IBLA, the Interior administrative review body for BLM, is responsible for adjudicating all administrative appeals on Indian allotment decisions, among other duties.

⁴Act of June 28, 1934, ch. 865, 48 Stat. 1269 (1934).

⁵Pub. L. No. 94-579, 90 Stat. 2743 (1976) (codified as amended at 43 U.S.C. §§ 1701-1785).

⁶43 C.F.R. pt. 2530. In addition, BLM has issued a variety of guidance documents on the Indian allotment program.

Individual Indian allotments present a unique management challenge for BIA—the multiple ownership of a single property (fractionation). In an earlier report on Indian land ownership profiles at select reservations, we found that the 1887 allotment act provided, among other things, that the heirs of an Indian who had been allocated land would inherit the decedent’s ownership interests in the land.⁷ Because of this provision, the ownership of some allotted land has continually become fractionated as ownership interests have passed from generation to generation. With fractionated land, development (e.g., building a home site) can be difficult because it may require agreement among multiple ownership interests of the development plan. In some cases, fractionated lands have up to several hundred ownership interests. In addition, fractionated land creates increased management responsibilities for BIA because BIA must work with growing ownership interests on the same parcel of land, for example, in distributing mineral royalties. With the passage of the Indian Land Consolidation Act of 1983, the federal government has been trying to reduce the problem of fractionation by consolidating individual Indian land ownership interests into tribal ownership.⁸ A 2000 amendment to the 1983 act established a fund to assist tribes in buying back fractional interests in reservation lands.⁹

The fiscal year 2006 House Appropriations Committee Report for Interior’s appropriation bill directed GAO to study BIA’s procedures and practices in implementing its land in trust regulations.¹⁰ We issued our report in July 2006.¹¹ In response to the direction in the House report and subsequent discussions with your offices, we also agreed to assess the extent to which BLM’s program for issuing allotments to individual Indians on public lands is still viable. This correspondence transmits the results of our review of BLM’s Indian allotment authority. In addition, we are providing some supplementary information to our July 2006 report on the amount of land held in trust for newly recognized and restored tribes and an identification of landless tribes (encl. II).

In conducting our work, we reviewed applicable laws, regulations, and policies. We met with BLM’s Lands and Realty staff in Washington, D.C., to discuss the program. We requested information on the number of approved, denied, and pending Indian allotment applications from BLM’s LR2000 database—a system with information on the programs and lands BLM manages—over a 20-year period between January 1, 1986, and January 1, 2006, to ascertain the amount of Indian allotment activity. However, BLM was only able to provide data through January 2002 because of security issues related to an ongoing federal court case, and it identified 94 possible

⁷GAO, *Indian Programs: Profile of Land Ownership at 12 Reservations*, [GAO/RCED-92-96BR](#) (Washington, D.C.: Feb. 10, 1992).

⁸Pub. L. No. 97-459, 96 Stat. 2517 (1983) (codified as amended at 25 U.S.C. §§ 2201-2221).

⁹Indian Land Consolidation Act Amendments of 2000, Pub. L. No. 106-462, §§ 103, 216, 114 Stat. 1991, 2002 (2000) (codified at 25 U.S.C. §§ 2201, 2215).

¹⁰H.R. Rep. No. 109-80, at 68 (2005).

¹¹GAO, *Indian Issues: BIA’s Efforts to Impose Time Frames and Collect Better Data Should Improve the Processing of Land in Trust Applications*, [GAO-06-781](#) (Washington, D.C.: July 28, 2006).

allotment applications during this period. We attempted to confirm the LR2000 data along with any other allotment activity, including the period not covered by LR2000, with BLM state offices by e-mail and telephone. We conducted one site visit at the Eastern States Office in Springfield, Virginia, to interview staff and review Indian allotment case files. Of the 94 possible applications identified by LR2000, we were able to positively confirm that 11 were applications for initial Indian allotments within the scope of our review, 2 were applications for initial Indian allotments outside the scope of our review, and 22 were modifications to existing allotments and therefore outside the scope of our review. We could not readily confirm the remaining 59 applications because of difficulty in locating and retrieving files. We also reviewed applicable decisions by the IBLA and identified IBLA decisions that involved BLM decisions on 11 initial Indian allotment applications that fell within our time frame. The 22 confirmed applications within our time frame constitute the scope of our review of allotment applications. Enclosure I provides a more detailed description of our scope and methodology. We conducted our work between July and September 2006 in accordance with generally accepted government auditing standards.

Results in Brief

BLM's program for issuing Indian allotments on public lands is no longer viable because generally no currently available lands qualify for allotment; and therefore, the program does not offer a reasonable opportunity of providing benefits for those applying for allotments. Specifically, the Taylor Grazing Act of 1934, the land management plans developed under the Federal Land Policy and Management Act of 1976, and other federal actions have withdrawn nearly all public land in the United States from availability for allotment. In addition, the public land that has been classified for disposal is not suitable for Indian allotments because the land cannot support families as required by the allotment program, according to BLM officials and documents. The public land available for allotment that could support a family has generally been awarded over the past 120 years. Despite the lack of land available for release, BLM estimates that it receives an average of one to five allotment applications per year. For the 22 allotment applications we reviewed, BLM denied 18, approved 2, and 2 were withdrawn by the applicants. In addition, BLM officials could not recall any approvals for allotments during the past 20 years other than the two approvals in Arizona in 1990, more than 15 years ago. Interior continues to bear the administrative burden of processing these Indian allotment applications even though applicants have little chance of approval. Continuing to issue Indian allotments also runs counter to the federal government's actions since 1983 to consolidate Indian land holdings.

Because the allotment of public lands to Indian applicants is no longer an efficient and effective program that provides those applying for benefits with a reasonable chance of approval and because it runs counter to Indian land consolidation, we are recommending that the Secretary of the Interior develop a proposal for the Congress to repeal section 4 of the 1887 General Allotment Act, which provides BLM the authority to issue Indian allotments on public lands. In commenting on the draft of this correspondence, Interior agreed with our findings and recommendation. See enclosure III for Interior's written comments.

Background

The General Allotment Act gave the President the authority to issue allotments to Indians on Indian reservations and on public lands. Specifically, the act states:

... the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and *to allot the lands in said reservation in severalty to any Indian located thereon ...*¹²

*That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled ... to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations ...*¹³

Lands not allotted on reservations were often opened by subsequent acts of Congress for purchase by non-Indians as homesteads.

Authority to issue Indian allotments was vested in the Secretary of the Interior, who delegated authority to BIA for lands on Indian reservations and to BLM for public lands.¹⁴ Congress ended BIA's authority to issue allotments on Indian reservations as part of the 1934 Indian Reorganization Act, but did not address BLM's authority. Current regulations specify the following maximum amount of land that can be applied for by a single applicant and permissible uses:

- Up to 40 acres of irrigable land,¹⁵
- Up to 80 acres of nonirrigable agricultural land,¹⁶ and
- Up to 160 acres of nonirrigable grazing land.¹⁷

To apply for an Indian allotment, applicants must first identify the land for which they are applying and obtain a certificate of eligibility from BIA showing that they are

¹²General Allotment Act § 1 (emphasis added). This authority applied to BIA.

¹³General Allotment Act § 4 (emphasis added). This authority applied to BLM.

¹⁴Section 31 of the Act of June 25, 1910, 36 Stat. 863 (1910) (codified at 25 U.S.C. § 337) authorizes the Secretary of the Interior to issue Indian allotments within national forests if the Secretary of Agriculture, acting through the U.S. Forest Service, determines that the lands are more valuable for agricultural or grazing purposes than for timber. As with BLM's allotment authority, the Indian Reorganization Act did not address this authority to issue Indian allotments. We did not review the Forest Service process since it involves a separate statute and another federal agency. The applicable regulations are at 43 C.F.R. pt. 2533.

¹⁵Irrigable land is defined in the regulations as land susceptible of successful irrigation at a reasonable cost from any known source of water supply.

¹⁶Nonirrigable agricultural land is defined in the regulations as land upon which agricultural crops can be profitably raised without irrigation.

¹⁷Grazing land is defined in the regulations as land that cannot be profitably devoted to any agricultural use other than grazing.

either "... a recognized member of an Indian tribe or [are] entitled to be so recognized" and submit that certificate, together with their allotment application, to a local BLM office serving the area. The application must include, among other things, plans for developing the land and any previous allotments received. If necessary, applicants must petition BLM to have the land classified for disposal under the act. After BLM receives the application, it generally begins with the classification process. Classification can take several months and BLM must consider the (1) physical suitability of the land for the proposed classification, which requires BLM to inspect the proposed allotment; (2) present and potential future land use; (3) consistency with state and local programs, plans, and zoning; and (4) consistency with federal programs and policies.¹⁸ BLM also must confirm that the intended use of the land complies with environmental laws.

If the land is classified for disposal under the act and the land and the applicant meet the other requirements in the regulations, a certificate of allotment is issued. At this point, applicants must live on the land for 2 years to prove they can sustain themselves and their families, if any, solely from either farming or grazing. Applicants may not use any other sources of income to supplement their earnings from the land. BLM must periodically visit during this time to ensure that applicants are, in fact, residing on the land and following the economic development plan. If at the end of this 2-year period applicants have proven that they can sustain themselves and their families on the land, then BLM issues a trust patent, or title, to the applicant and the allotment process is concluded. The trust patent is held in trust by the federal government.¹⁹

The more widely known and commonly used process for tribes and individual Indians to acquire new trust property is through BIA's land in trust process in 25 C.F.R. part 151. Section 5 of the Indian Reorganization Act provided the Secretary of the Interior the discretionary authority to take land in trust on behalf of federally recognized tribes or their members. Specifically, section 5 states:

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 to lands, *within or without existing reservations* ... for the purpose of providing land for the Indians. ... Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and *such lands or rights shall be exempt from State and local taxation.*²⁰

¹⁸ 43 C.F.R. § 2410.1.

¹⁹The General Allotment Act required newly allotted land to be held in trust status for 25 years. After this period, BLM would issue a fee patent to the property owner and the government would relinquish all management responsibilities over the land. Executive orders and orders of the Secretary of the Interior have extended the 25-year period. See 25 C.F.R. ch. I, app.

²⁰Indian Reorganization Act § 5 (emphasis added).

In our July 2006 report, we reviewed BIA's land in trust process.²¹ Specifically, we reviewed all of the land in trust applications decided by BIA in fiscal year 2005. Of the 87 applications with BIA decisions in fiscal year 2005, 78 applications were from tribes covering about 4,800 acres and 9 applications were from individual Indians covering about 1,000 acres.

BLM's Program for Issuing Indian Allotments Is No Longer Viable

BLM's program for issuing Indian allotments on public lands is no longer viable because over time federal laws and actions have withdrawn many of these lands from disposal as allotments or BLM has awarded available lands as allotments. Consequently, the program does not offer a reasonable chance of providing benefits for those seeking allotments. In particular, the Taylor Grazing Act of 1934 and two executive orders issued in the mid-1930s implementing that law withdrew most public lands from disposal until such lands could be classified. The executive orders, in 1934 and 1935, carried out the requirements of the Taylor Grazing Act by requiring the classification of all public lands in 24 states, mostly in the West.²² As a result, public lands were no longer presumed to be available for Indian allotments. Furthermore, the land use plans developed under the Federal Land Policy and Management Act of 1976 place further limitations on the land available for allotment.

The public land classified for disposal and currently available is not suitable for Indian allotments because the land could not support an individual Indian or family as required by the allotment program, according to BLM officials and documents. Suitable public land that could support an individual Indian or family largely has been awarded over the past 120 years. According to a 1964 BLM guide to the Indian allotment process, most of the lands having "significant agricultural values" had already been disposed of. In a June 1967 bulletin, BLM stated that "almost all of the good land is owned privately" and "there is very little chance of finding land that is suitable for an Indian allotment." In a November 2004 paper recommending a moratorium on the filing of new Indian allotment applications, BLM's Lands and Realty staff identified no acres available for disposal that meet the requirements of the General Allotment Act.²³ Finally, according to an undated Indian allotment fact sheet provided by the Nevada State Office, "most of the public domain lands BLM administers are the lands no one else wanted, and they are not capable of supporting sustained agricultural production." BLM denied 18 of the 22 applications we were able to confirm and approved 2 in Arizona in 1990. The remaining two applications

²¹[GAO-06-781](#).

²²Executive Order 6910, issued November 26, 1934, and Executive Order 6964, issued February 5, 1935. The former temporarily withdrew public lands in 12 western states—Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, and Wyoming—"from settlement, location, sale or entry" until such lands were classified for their most useful purpose and for "conservation and development of natural resources." The latter temporarily withdrew public lands in 12 additional states—Alabama, Arkansas, Florida, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Nebraska, Oklahoma, Washington, and Wisconsin—for classification.

²³We were not able to independently confirm this fact. According to BLM Lands and Realty staff, these data were drawn from an ad hoc query to BLM state offices in the mid-1990s, for which there is no documentation, but staff added that data might not be entirely accurate.

were withdrawn by the applicant. It denied most Indian allotment applications because the land did not qualify for allotment.

Although generally no land qualifies for Indian allotments, Interior continues to bear an administrative burden in processing allotment applications. BLM must process allotment applications—an average of one to five allotments annually, according to BLM estimates—even though BLM almost always denies them. In addition to processing applications, BLM officials said they also field periodic inquiries from the public about the Indian allotment program and how to apply for an allotment. BLM officials added that they could not recall any approvals for Indian allotments over the past 20 years, other than the two approvals in Arizona in 1990, more than 15 year ago.

BIA, and, potentially the IBLA, also must devote resources to the allotment program. BIA is responsible for certifying that an allotment applicant is “... a recognized member of an Indian tribe or is entitled to be so recognized.” In addition, BIA must manage Indian allotments once they are held in trust status, which includes responsibilities such as probate and real estate services. In addition, a number of Indian allotment decisions have been administratively appealed to the IBLA, which has generally affirmed BLM decisions to deny Indian allotment applications. In nearly all of the 31 appeal cases we identified, the IBLA affirmed BLM’s decision to deny the application.²⁴ The applications were generally denied because the land did not qualify for an allotment.

In addition to posing an administrative burden, the allotment program runs counter to the federal government’s actions to consolidate Indian land holdings. Over time, the ownership of individual Indian allotments has become fractionated through inheritance laws. This fractionation has resulted in difficulties in managing these lands. Retaining BLM’s authority to issue Indian allotments on public lands potentially leads to the same problems allotments have caused on reservations by increasing fractional ownership and the administrative burden for the federal government in managing these lands.²⁵

BLM officials have recognized the problems with the Indian allotment program and have offered suggestions for eliminating it. For example, in response to a departmental request in the late 1990s, BLM included the allotment authority in a list of laws it recommended that Congress should modify or repeal. However, Interior did not officially submit this list to Congress, according to BLM Lands and Realty

²⁴Only 3 of the 31 IBLA decisions we identified were made in the last 20 years—(1) a January 21, 1993, decision affirming the denial of one application in California (*Ramona L. Randa*, 125 IBLA 153 (1993)), (2) a July 29, 1996, decision affirming the denial of two applications in New Mexico (*Lehman Perkaquanart*, 136 IBLA 182 (1996)), and (3) a February 3, 2003, decision affirming the denial of eight applications in Montana (*Jane Delorme*, 158 IBLA 260 (2003)). These 3 decisions involved 11 of the 22 Indian allotment applications we reviewed from the past 20 years. The remaining 28 decisions were prior to January 1, 1986, and they involved about 300 additional allotment applications. A January 21, 1983, decision involved 180 applications (*George L. Clay Lee*, 70 IBLA 196 (1983)).

²⁵Other evidence of this shifting toward land consolidation can be seen at BIA, which is considering changes to its land in trust regulations that would essentially halt the processing of individual land in trust applications.

staff. More recently, in November 2004, BLM Lands and Realty staff issued a paper to the Associate Deputy Secretary of the Interior on the allotment program that offered recommendations for eliminating it, including a Secretarial Order placing a moratorium on the filing of allotment applications and removing the existing regulations. BLM Lands and Realty staff informed us that in reviewing these recommendations, Interior's Office of the Solicitor determined that none of the recommendations offered a viable way to eliminate the program because none of them repealed the law itself. As long as the authority remains in law, the Office of the Solicitor concluded, BLM would be required to process new applications. BLM has not pursued any further options since 2004 because of greater priorities in other areas and the potential of attracting unwanted attention to the program and possibly more applications by highlighting its existence, according to BLM Lands and Realty staff.

Conclusions

BLM's program to issue individual Indian allotments on public lands has become obsolete with the passage of time and subsequent congressional actions. Thousands of individual Indian allotments were granted on public lands from 1887 to 1934, under the federal government's Indian allotment policy. However, in 1934, the Indian Reorganization Act ended the Indian allotment policy, while at the same time it provided the Secretary of the Interior with new authority to acquire land in trust, on and off reservations, on behalf of federally recognized tribes or their members. Under the Taylor Grazing Act, which was enacted 10 days after the Indian Reorganization Act, and implementing executive orders, large portions of public lands were no longer available for Indian allotments. More recently, under the Federal Land Policy and Management Act of 1976, additional public lands have been removed from being available for Indian allotments. In addition, the allotment program runs counter to the federal government's continuing effort to address the fractionation problem of individual allotments by trying to consolidate Indian land holdings into tribal ownership.

Federal programs should be effective and efficient, and should provide a reasonable chance for applicants to receive benefits for which they apply. By these measures, BLM's Indian allotment program is no longer viable. Those applying to BLM for Indian allotments on public lands have no reasonable chance of being approved because available land for allotments is almost nonexistent. Nevertheless, BLM continues to receive applications for Indian allotments, and it and other Interior agencies must commit resources to processing them. As a result, the allotment program draws resources away from Interior's higher priorities. Currently, the more effective and appropriate mechanism for Indians to receive additional trust acreage is through BIA's land in trust process under 25 C.F.R. part 151.

Recommendation for Executive Action

We are recommending that the Secretary of the Interior develop a proposal for the Congress to repeal section 4 of the 1887 General Allotment Act, which provides BLM the authority to issue Indian allotments on public lands.

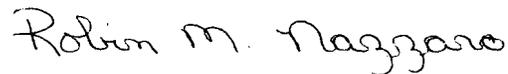
Agency Comments

Interior's Acting Assistant Secretary for Land and Minerals Management commented on a draft of this correspondence in a letter dated September 26, 2006 (see encl. III). Interior agreed with our findings and recommendation.

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We are sending copies of this report to interested congressional committees, the Secretary of the Interior, the Acting Assistant Secretary for Land and Minerals Management, the BLM Director, BLM state offices, and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3841 or nazzaror@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in enclosure IV.



Robin M. Nazzaro
Director, Natural Resources and Environment

Enclosure I

Scope and Methodology

We reviewed applicable laws, regulations, and policies concerning the authority of the Department of the Interior's (Interior) Bureau of Land Management (BLM) to issue Indian allotments on public lands. We met with BLM Lands and Realty staff in Washington, D.C., to discuss their perspectives on the Indian allotment program, particularly a November 2004 paper issued by this office that contains recommendations for eliminating the program.²⁶

To collect the case-specific data on approved, denied, and pending Indian allotment applications from January 1, 1986, through January 1, 2006, we requested and Interior provided a list from its LR2000 database—a system with information on the programs and lands managed by BLM—that contained 94 cases identified as Indian allotments. The list also contained an additional 2,352 cases categorized as Indian allotments for the state of New Mexico, but BLM officials said these cases were part of a federal court settlement and therefore not allotments. Interior queried the database for all Indian allotments approved, denied, and pending during the period from January 1, 1985, through January 1, 2002, but were unable to query the time frame from 2002 onward because of security issues related to an ongoing federal court case. Although we initially asked for and BLM provided data starting on January 1, 1985, we decided to use a 20-year time frame between January 1, 1986, and January 1, 2006, during the course of our work. In addition, BLM Lands and Realty staff told us that some of the LR2000 cases coded as “Indian allotment” might not fit our criteria because the category is used for other types of transactions, such as Indian fee patents. Therefore, to confirm the status of these cases and identify any others, including those between 2002 and 2006, we forwarded the LR2000 list to each of the 12 BLM state offices—Alaska, Arizona, California, Colorado, Eastern States, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Wyoming—to have them identify Indian allotment cases. We then followed up with staff in each state office either via e-mail or telephone to confirm information provided. In one instance, we visited the Eastern States Office in Springfield, Virginia, and interviewed staff and reviewed cases identified in LR2000 under jurisdiction of this office.

We found many instances in which the cases listed in LR2000 were not the original Indian allotments that we were trying to identify, but rather subsequent transactions on an original allotment. In the case of Eastern States, LR2000 listed 16 allotment cases but we identified only 2 that fit our criteria during our visit, and those fell outside of our established time frame. The remaining 14 cases were applications to change the status of Indian allotments issued a number of years ago, for example from trust to fee status. In other cases, BLM state offices were unable to determine the status of cases because the cases were old and no longer located on site, and the BLM staff had no access to LR2000 to make determinations on the cases. To obtain

²⁶U.S. Department of the Interior, BLM's Lands and Realty Group, *Background Information and Rational for Suspending the Filing of Indian Allotments and Removal of Applicable Regulation* (Washington, D.C.: Nov. 17, 2004).

cases from off-site storage facilities would have taken several weeks. Of the 94 possible applications identified by LR2000, we were able to positively confirm that 11 were applications for initial Indian allotments within the scope of our review, 2 were applications for Indian allotments outside the scope of our review, and 22 were modifications to existing allotments and therefore outside the scope of our review. We could not readily confirm the remaining 59 applications because of difficulty in locating and retrieving files.

We also reviewed 31 Interior Board of Land Appeals (IBLA) decisions concerning Indian allotment applications that we were able to identify, 28 of which involved a BLM decision prior to January 1, 1986. The three decisions within our review period involved 11 applications; *Jane Delorme*, 158 IBLA 260 (2003), affirmed BLM's November 30, 2001, decision to deny 8 applications in Montana, *Lehman Perkaquanard*, 136 IBLA 182 (1996), affirmed BLM's February 2, 1993, decision to deny 2 applications in New Mexico, and *Ramona L. Randa*, 125 IBLA 153 (1993), affirmed BLM's April 16, 1992, decision to deny 1 application in California. Based on the deficiencies in the LR2000 data and difficulties in obtaining case files, we decided to report only on the 22 cases (11 from the LR2000 query and 11 related to IBLA decisions) that we were able to confirm as Indian allotments within our time frame.

Finally, we reviewed Public Land Statistics data from 1962 through 2004 to identify any Indian allotments issued. However, since it was unclear how Indian allotments were categorized in these reports, we were not able to use this information. We conducted our work from July through September 2006 according to generally acceptable government auditing standards.

Enclosure II

Data on Newly Recognized and Restored Tribes

In July 2006, we reported on the Bureau of Indian Affairs' (BIA) process for placing land in trust for tribes and individual Indians.²⁷ BIA's general authority to take land in trust for tribes and individual Indians dates back to the Indian Reorganization Act in 1934.²⁸ Two groups of tribes of particular interest that have availed themselves of BIA's land in trust process are newly recognized and restored tribes. In November 2001, we reported on BIA's process for recognizing new tribes.²⁹ At that time, we identified 47 newly recognized tribes and 37 restored tribes, for a total of 84 newly recognized and restored tribes. While our November 2001 report contained detailed information on the 47 newly recognized tribes in a table on pages 25 to 26, it did not contain similar information on the 37 restored tribes. Table 1 provides detailed information on the 37 restored tribes. Twenty-three of the tribes were restored by federal court decisions and the remaining 14 were restored by congressional action.

Table 1: Thirty-seven Tribes Have Been Restored through Congressional Acts and Federal Court Decisions

Tribe	Date terminated	Date restored	How the tribe was restored
Menominee Indian Tribe of Wisconsin	Apr. 30, 1961	Dec. 22, 1973	Congressional restoration, Pub. L. No. 93-197, 87 Stat. 770 (1973)
Robinson Rancheria of Pomo Indians of California	Sept. 3, 1965	June 29, 1977	Federal court restoration, <i>Duncan v. Andrus</i> , 517 F. Supp. 1 (N.D. Cal.1977) ^a
Confederated Tribes of the Siletz Reservation, Oregon	Aug. 13, 1956	Nov. 18, 1977	Congressional restoration, Pub. L. No. 95-195, 91 Stat. 1415 (1977)
Ottawa Tribe of Oklahoma	Aug. 3, 1959	May 15, 1978	Congressional restoration, Pub. L. No. 95-281, 92 Stat. 246 (1978)
Peoria Tribe of Indians of Oklahoma	Aug. 2, 1959	May 15, 1978	Congressional restoration, Pub. L. No. 95-281, 92 Stat. 246 (1978)
Paiute Indian Tribe of Utah	Mar. 1, 1957	Apr. 3, 1980	Congressional restoration, Pub. L. No. 96-227, 94 Stat. 317 (1980)
Wiyot Tribe, California	Apr. 11, 1961	Sept. 21, 1981	Federal court restoration, <i>Table Bluff Band of Indians v. Andrus</i> , 532 F. Supp. 255 (N.D. Cal. 1981)
Confederated Tribes of the Grand Ronde Community of Oregon	Aug. 13, 1956	Nov. 22, 1983	Congressional restoration, Pub. L. No. 98-165, 97 Stat. 1064 (1983)
Bear River Band of the Rohnerville Rancheria, California	July 16, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick v. United States</i> , No. 79-1710 SW (N.D. Cal. 1983) ^b
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California	Nov. 11, 1965	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Blue Lake Rancheria, California	Sept. 22, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Buena Vista Rancheria of Me-Wuk Indians of California	Apr. 11, 1961	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b

²⁷GAO, *Indian Issues: BIA's Efforts to Impose Time Frames and Collect Better Data Should Improve the Processing of Land in Trust Applications*, [GAO-06-781](#) (Washington, D.C.: July 28, 2006).

²⁸Act of June 18, 1934, ch. 576, § 5, 48 Stat. 984, 985 (1934).

²⁹GAO, *Indian Issues: Improvements Needed in Tribal Recognition Process*, [GAO-02-49](#) (Washington, D.C.: Nov. 2, 2001).

Tribe	Date terminated	Date restored	How the tribe was restored
Chicken Ranch Rancheria of Me-Wuk Indians of California	Aug. 1, 1961	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Cloverdale Rancheria of Pomo Indians of California	Dec. 30, 1965	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Elk Valley Rancheria, California	July 16, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Greenville Rancheria of Maidu Indians of California	Dec. 8, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Mooretown Rancheria of Maidu Indians of California	Aug. 1, 1961	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Northfork Rancheria of Mono Indians of California	Feb. 18, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Picayune Rancheria of Chukchansi Indians of California	Feb. 18, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Pinoleville Rancheria of Pomo Indians of California	Feb. 18, 1966	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Potter Valley Tribe, California	Aug. 1, 1961	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Quartz Valley Indian Community of the Quartz Valley Reservation of California	Jan. 20, 1967	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Redding Rancheria, California	June 20, 1962	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Redwood Valley Rancheria of Pomo Indians of California	Aug. 1, 1961	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Smith River Rancheria, California	July 29, 1967	Dec. 22, 1983	Federal court restoration, <i>Tillie Hardwick</i> ^b
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon	Aug. 13, 1956	Oct. 17, 1984	Congressional restoration, Pub. L. No. 98-481, 98 Stat. 2250 (1984)
Klamath Tribes, Oregon	Aug. 13, 1961	Aug. 27, 1986	Congressional restoration, Pub. L. No. 99-398, 100 Stat. 849 (1986)
Alabama-Coushatta Tribes of Texas	July 1, 1955	Aug. 18, 1987	Congressional restoration, Pub. L. No. 100-89, 101 Stat. 666 (1987)
Ponca Tribe of Nebraska	Oct. 27, 1966	Oct. 31, 1990	Congressional restoration, Pub. L. No. 101-484, 104 Stat. 1167 (1990)
Guidiville Rancheria of California	Sept. 3, 1965	Sept. 6, 1991	Federal court restoration, <i>Scotts Valley Band of the Sugar Bowl Rancheria v. United States</i> , No. C-86-3660-WWS (N.D. Cal. 1991) ^c
Lytton Rancheria of California	Aug. 1, 1961	Sept. 6, 1991	Federal court restoration, <i>Scotts Valley</i> ^c
Scotts Valley Band of Pomo Indians of California	Sept. 3, 1965	Sept. 6, 1991	Federal court restoration, <i>Scotts Valley</i> ^c
Mechoopda Indian Tribe of Chico Rancheria, California	June 2, 1967	Apr. 17, 1992	Federal court restoration, <i>Scotts Valley</i> ^d
Catawba Indian Nation	July 2, 1960	Oct. 27, 1993	Congressional restoration, Pub. L. No. 103-116, 107 Stat. 1118 (1993)
United Auburn Indian Community of the Auburn Rancheria of California	Aug. 18, 1967	Oct. 31, 1994	Congressional restoration, Pub. L. No. 103-434, 108 Stat. 4533 (1994)
Paskenta Band of Nomlaki Indians of California	Apr. 11, 1961	Nov. 2, 1994	Congressional restoration, Pub. L. No. 103-454, 108 Stat. 4793 (1994)
Federated Indians of Graton Rancheria, California	Feb. 18, 1966	Dec. 27, 2000	Congressional restoration, Pub. L. No. 106-568, 114 Stat. 2939 (2000)

Source: GAO analysis of relevant laws and federal court cases restoring tribes.

Note: BIA did not complete the termination process for some tribes. For example, 25 C.F.R. pt. 242 (1959) (rescinded effective May 13, 1981, see 46 *Fed. Reg.* 26476), the implementing regulations for the California Rancheria Termination Act (Pub. L. No. 85-671, 72 Stat. 619 (1958), as amended by Pub. L. No. 88-419, 78 Stat. 390 (1964)), provided a number of steps to be completed for the termination of a California Indian entity. Pursuant to 25 C.F.R. § 242.12, the termination process was to culminate with the publication of a proclamation in the *Federal Register* declaring that the special relationship between the federal government and tribe was terminated. Since no such proclamation was ever issued for tribes such as the Hopland Band of Pomo Indians of the Hopland Rancheria, California and the Habematolel Pomo of Upper Lake, California, among others, those tribes were never officially terminated and are not included in this table. In a similar case, BIA never published a notice in the *Federal Register* terminating the Wyandotte Nation, Oklahoma, as required by their termination act

(see Pub. L. No. 84-887, 70 Stat. 893, § 13(a) (1956)). There is, however, some ambiguity over how to classify these tribes and for various reasons BIA identifies them as restored tribes. In addition, there are other tribes that were terminated that have not been restored as of the date of this report. Those terminated and non-restored tribes are not included in the table.

^a42 *Fed. Reg.* 33099 (June 29, 1977).

^b49 *Fed. Reg.* 24084 (June 11, 1984).

^c57 *Fed. Reg.* 5214 (Feb. 12, 1992).

^d57 *Fed. Reg.* 19133 (May 4, 1992).

While no additional tribes have been restored since our November 2001 report, there have been changes to the list of newly recognized tribes. The recognition of the Delaware Tribe of Indians of Oklahoma was overturned in court, and the tribe has been removed from BIA's official list of federally recognized tribes.³⁰ In addition, BIA added the Cowlitz Indian Tribe in the state of Washington as a newly recognized tribe as of January 4, 2002.³¹ By deleting one tribe and adding another, the total number of newly recognized tribes since 1960 remains at 47.

To supplement our July 2006 land in trust report, table 2 provides information on the more than 600,000 acres of individual and tribal trust land that the 84 newly recognized and restored tribes or their members have acquired since being recognized or restored.

Table 2: Individual and Tribal Trust Acreage for the 84 Newly Recognized and Restored Tribes

Tribe	Newly recognized or restored	Date recognized or restored	Tribal trust acres	Individual trust acres	Total trust acres
Miccosukee Tribe of Indians of Florida	Newly recognized	Nov. 17, 1961	79,831.44	0.00	79,831.44
Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon	Newly recognized	Nov. 16, 1967	942.60	10,534.00	11,476.60
Nooksack Indian Tribe of Washington	Newly recognized	Aug. 13, 1971	212.68	0.00	212.68
Sauk-Suiattle Indian Tribe of Washington	Newly recognized	June 9, 1972	23.21	0.00	23.21
Upper Skagit Indian Tribe of Washington	Newly recognized	June 9, 1972	74.17	0.00	74.17
Passamaquoddy Tribe of Maine	Newly recognized	June 29, 1972	133,677.00	0.00	133,677.00
Penobscot Tribe of Maine	Newly recognized	July 14, 1972	65,608.38	0.00	65,608.38
Sault Ste. Marie Tribe of Chippewa Indians of Michigan	Newly recognized	Sept. 7, 1972	1,707.63	0.00	1,707.63
Tonto Apache Tribe of Arizona	Newly recognized	Oct. 6, 1972	85.00	0.00	85.00
Coushatta Tribe of Louisiana	Newly recognized	June 27, 1973	684.00	0.00	684.00
Menominee Indian Tribe of Wisconsin	Restored	Dec. 22, 1973	235,077.64	0.00	235,077.64
Stillaguamish Tribe of Washington	Newly recognized	Oct. 27, 1976	24.30	0.00	24.30
Robinson Rancheria of Pomo Indians of California	Restored	June 29, 1977	143.28	9.94	153.22
Confederated Tribes of the Siletz Reservation, Oregon	Restored	Nov. 18, 1977	4,107.90	142.78	4,250.68
Ottawa Tribe of Oklahoma	Restored	May 15, 1978	26.63	0.00	26.63
Peoria Tribe of Indians of Oklahoma	Restored	May 15, 1978	882.34	0.63	882.97

³⁰See *Cherokee Nation of Oklahoma v. Norton*, 389 F.3d 1074 (10th Cir. 2004), *cert. denied* 126 S. Ct. 333 (2005). Also, see the most recent list of federally recognized tribes at 70 *Fed. Reg.* 71194 (Nov. 25, 2005).

³¹67 *Fed. Reg.* 607 (Jan. 4, 2002).

Tribe	Newly recognized or restored	Date recognized or restored	Tribal trust acres	Individual trust acres	Total trust acres
Modoc Tribe of Oklahoma	Newly recognized	May 15, 1978	230.41	0.00	230.41
Pascua Yaqui Tribe of Arizona	Newly recognized	Sept. 18, 1978	1,395.24	0.00	1,395.24
Karuk Tribe of California	Newly recognized	Jan. 15, 1979	596.07	246.16	842.23
Paiute Indian Tribe of Utah	Restored	Apr. 3, 1980	43,576.99	0.00	43,576.99
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan	Newly recognized	May 27, 1980	562.49	0.00	562.49
Houlton Band of Maliseet Indians of Maine	Newly recognized	Oct. 10, 1980	850.00	0.00	850.00
Jamestown S'Klallam Tribe of Washington	Newly recognized	Feb. 10, 1981	72.50	0.00	72.50
Jamul Indian Village of California	Newly recognized	July 7, 1981	6.03	0.00	6.03
Wiyot Tribe, California	Restored	Sept. 21, 1981	87.99	0.00	87.99
Tunica-Biloxi Indian Tribe of Louisiana	Newly recognized	Sept. 25, 1981	725.61	0.00	725.61
Cow Creek Band of Umpqua Indians of Oregon	Newly recognized ^a	Dec. 29, 1982	1,497.75	0.00	1,497.75
Death Valley Timbi-Sha Shoshone Band of California	Newly recognized	Jan. 3, 1983	7,753.99	0.00	7,753.99
Kickapoo Traditional Tribe of Texas	Newly recognized	Jan. 8, 1983	3,715.47	3,376.26	7,091.73
Narragansett Indian Tribe of Rhode Island	Newly recognized	Apr. 11, 1983	1,943.50	0.00	1,943.50
Mashantucket Pequot Tribe of Connecticut	Newly recognized	Oct. 18, 1983	1,545.20	0.00	1,545.20
Confederated Tribes of the Grand Ronde Community of Oregon	Restored	Nov. 22, 1983	10,658.36	20.00	10,678.36
Bear River Band of the Rohnerville Rancheria, California	Restored	Dec. 22, 1983	60.00	2.16	62.16
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California	Restored	Dec. 22, 1983	84.73	14.79	99.52
Blue Lake Rancheria, California	Restored	Dec. 22, 1983	10.00	9.40	19.40
Buena Vista Rancheria of Me-Wuk Indians of California	Restored	Dec. 22, 1983	0.00	0.00	0.00
Chicken Ranch Rancheria of Me-Wuk Indians of California	Restored	Dec. 22, 1983	50.58	0.00	50.58
Cloverdale Rancheria of Pomo Indians of California	Restored	Dec. 22, 1983	0.00	12.56	12.56
Elk Valley Rancheria, California	Restored	Dec. 22, 1983	193.72	21.72	215.44
Greenville Rancheria of Maidu Indians of California	Restored	Dec. 22, 1983	0.00	1.80	1.80
Mooretown Rancheria of Maidu Indians of California	Restored	Dec. 22, 1983	425.62	19.69	445.31
Northfork Rancheria of Mono Indians of California	Restored	Dec. 22, 1983	61.52	80.00	141.52
Picayune Rancheria of Chukchansi Indians of California	Restored	Dec. 22, 1983	0.00	28.76	28.76
Pinoleville Rancheria of Pomo Indians of California	Restored	Dec. 22, 1983	2.84	23.53	26.37
Potter Valley Tribe, California	Restored	Dec. 22, 1983	0.00	0.00	0.00
Quartz Valley Indian Community of the Quartz Valley Reservation of California	Restored	Dec. 22, 1983	105.62	24.02	129.64
Redding Rancheria, California	Restored	Dec. 22, 1983	3.33	47.00	50.33
Redwood Valley Rancheria of Pomo Indians of California	Restored	Dec. 22, 1983	159.61	16.91	176.52
Smith River Rancheria, California	Restored	Dec. 22, 1983	41.62	47.87	89.49
Poarch Band of Creek Indians of Alabama	Newly recognized	Aug. 10, 1984	386.92	0.00	386.92
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon	Restored	Oct. 17, 1984	130.50	0.00	130.50
Klamath Tribes, Oregon	Restored	Aug. 27, 1986	556.24	720.18	1,276.42
Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts	Newly recognized	Apr. 11, 1987	466.70	0.00	466.70
Alabama-Coushatta Tribes of Texas	Restored	Aug. 18, 1987	5,197.46	0.00	5,197.46
Ysleta Del Sur Pueblo of Texas	Newly recognized ^a	Aug. 18, 1987	3,227.34	0.00	3,227.34
Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan	Newly recognized	Sept. 8, 1988	303.08	0.00	303.08

Tribe	Newly recognized or restored	Date recognized or restored	Tribal trust acres	Individual trust acres	Total trust acres
Coquille Tribe of Oregon	Newly recognized ^a	June 28, 1989	6,481.95	0.00	6,481.95
San Juan Southern Paiute Tribe of Arizona	Newly recognized	Mar. 28, 1990	0.00	0.00	0.00
Ponca Tribe of Nebraska	Restored	Oct. 31, 1990	158.84	83.00	241.84
Guidiville Rancheria of California	Restored	Sept. 6, 1991	44.63	2.25	46.88
Lytton Rancheria of California	Restored	Sept. 6, 1991	9.53	0.00	9.53
Scotts Valley Band of Pomo Indians of California	Restored	Sept. 6, 1991	0.00	0.79	0.79
Aroostook Band of Micmac Indians of Maine	Newly recognized	Nov. 26, 1991	314.38	0.00	314.38
Mechoopda Indian Tribe of Chico Rancheria, California	Restored	Apr. 17, 1992	0.00	0.00	0.00
Catawba Indian Nation	Restored	Oct. 27, 1993	1,010.00	0.00	1,010.00
Ione Band of Miwok Indians of California	Newly recognized	Mar. 22, 1994	0.00	0.00	0.00
Mohegan Indian Tribe of Connecticut	Newly recognized	May 14, 1994	406.00	0.00	406.00
Little River Band of Ottawa Indians, Michigan	Newly recognized	Sept. 21, 1994	534.95	0.00	534.95
Little Traverse Bay Bands of Odawa Indians, Michigan	Newly recognized	Sept. 21, 1994	424.16	0.00	424.16
Pokagon Band of Potawatomi Indians, Michigan and Indiana	Newly recognized	Sept. 21, 1994	0.00	0.00	0.00
United Auburn Indian Community of the Auburn Rancheria of California	Restored	Oct. 31, 1994	49.21	0.00	49.21
Paskenta Band of Nomlaki Indians of California	Restored	Nov. 2, 1994	1,869.16	0.00	1,869.16
Central Council of the Tlingit & Haida Indian Tribes	Newly recognized	Nov. 2, 1994	31.59	0.00	31.59
Jena Band of Choctaw Indians, Louisiana	Newly recognized	Aug. 29, 1995	62.63	0.00	62.63
Huron Potawatomi, Inc., Michigan	Newly recognized	Mar. 17, 1996	0.00	0.00	0.00
Samish Indian Tribe, Washington	Newly recognized	Apr. 26, 1996	0.00	0.00	0.00
Match-e-be-nash-she-wish Band of Potawatomi Indians of Michigan	Newly recognized	Aug. 23, 1999	0.00	0.00	0.00
Snoqualmie Tribe, Washington	Newly recognized	Oct. 6, 1999	0.00	0.00	0.00
Federated Indians of Graton Rancheria, California	Restored	Dec. 27, 2000	0.00	0.00	0.00
Shawnee Tribe, Oklahoma	Newly recognized	Dec. 27, 2000	0.00	0.00	0.00
Lower Lake Rancheria, California	Newly recognized	Dec. 29, 2000	0.00	0.00	0.00
King Salmon Tribe	Newly recognized	Dec. 29, 2000	0.00	0.00	0.00
Sun'aq Tribe of Kodiak	Newly recognized	Dec. 29, 2000	0.00	0.23	0.23
Cowlitz Indian Tribe, Washington	Newly recognized	Jan. 4, 2002	0.00	0.00	0.00
Total			621,190.26	15,486.43	636,676.69

Source: GAO analysis of BIA's fiscal year 2005 annual acreage reports.

Note: BIA's land in trust database provides agencywide data on the processing of land in trust applications. Our July 2006 report identified problems with this database. However, BIA realty staff noted that, according to the database, three landless tribes—the Little River Band of Ottawa Indians, Huron Potawatomi, Inc., Michigan, and the Pokagon Band of Potawatomi Indians, Michigan and Indiana—had land in trust applications pending and two additional landless tribes—the Stillaguamish Tribe of Washington and the Samish Indian Tribe, Washington—had land in trust applications approved as of August 17, 2006.

^aSome ambiguity exists over whether to classify this tribe as newly recognized or restored and for various reasons BIA classifies it as restored.

Also, as noted in our November 2001 tribal recognition report and our July 2006 land in trust report,³² BIA's tribal recognition and land in trust processes have come under greater scrutiny with the growth of Indian gaming. Table 3 shows the number of

³²GAO-02-49 and GAO-06-781.

tribes recognized or restored prior to and after enactment of the Indian Gaming Regulatory Act on October 17, 1988. The Indian Gaming Regulatory Act provides the statutory basis for the operation and regulation of certain gaming activities on Indian lands. It generally prohibits gaming activities on Indian lands acquired by the Secretary of the Interior after October 17, 1988, the date the act was signed into law. However, the act does provide several exceptions that allow gaming on lands acquired in trust after its enactment.³³

Table 3: Number of Tribes Recognized or Restored before and after Enactment of the Indian Gaming Regulatory Act

	Newly recognized	Restored	Total
Number of tribes recognized or restored from January 1, 1960 to enactment of the Indian Gaming Regulatory Act on October 17, 1988 (almost 29 years)	28	28	56
Number of tribes recognized or restored since the enactment of the Indian Gaming Regulatory Act to July 30, 2006 (almost 18 years)	19	9	28
Total	47	37	84

Source: GAO analysis of newly recognized and restored tribes.

Finally, another group of tribes cited in discussions regarding BIA’s land in trust process is the “landless” tribes. In this context, we will define a landless tribe as a federally recognized tribe located in the continental United States for which, according to BIA, the federal government does not hold title to any land in trust on behalf of the tribe.³⁴ Table 4 provides a list of the landless tribes. According to BIA’s fiscal year 2005 annual acreage reports, the federal government holds title to land in trust for individual tribal members of 7 of 21 landless tribes, but none for the tribe itself. The remaining 14 landless tribes have no tribal trust land, and their individual members do not have any individual trust land. All but 3 of the 21 tribes in table 4 are newly recognized or restored tribes.

³³GAO, *Indian Gaming Regulatory Act: Land Acquired for Gaming After the Act’s Passage*, [GAO/RCED-00-11R](#) (Washington, D.C.: Oct. 1, 1999).

³⁴BIA generally does not hold land in trust for federally recognized Alaska Native tribal entities in Alaska. Under the Alaska Native Claims Settlement Act, Pub. L. No. 92-203, 85 Stat. 688 (1971), Alaska Native tribal landholdings were vested with the Alaska Native corporations established under the act, except for the Metlakatla Indian Community, Annette Island Reserve. The term “landless” tribe in Alaska generally refers to Alaska Native entities excluded from the Alaska Native Claims Settlement Act. For example, H.R. 2559 and S. 1306 (109th Cong., 1st Sess.) would amend the Alaska Native Claims Settlement Act to include the Alaska communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell.

Table 4: Tribes with No Tribal Trust Acreage in the Continental United States in Fiscal Year 2005

Tribe	Newly recognized or restored	Year newly recognized or restored
No tribal trust land, but some individual trust land		
California Valley Miwok Tribe, California	a	a
Habematolei Pomo of Upper Lake, California	a	a
Winnemucca Indian Colony of Nevada	a	a
Cloverdale Rancheria of Pomo Indians of California	restored	1983
Greenville Rancheria of Maidu Indians of California	restored	1983
Picayune Rancheria of Chukchansi Indians of California	restored	1983
Scotts Valley Band of Pomo Indians of California	restored	1991
No tribal or individual trust land		
Buena Vista Rancheria of Me-Wuk Indians of California	restored	1983
Potter Valley Tribe, California	restored	1983
San Juan Southern Paiute Tribe of Arizona	newly recognized	1990
Mechoopda Indian Tribe of Chico Rancheria, California	restored	1992
Pokagon Band of Potawatomi Indians, Michigan and Indiana	newly recognized	1994
Ione Band of Miwok Indians of California	newly recognized	1994
Huron Potawatomi, Inc., Michigan	newly recognized	1996
Samish Indian Tribe, Washington	newly recognized	1996
Match-e-be-nash-she-wish Band of Potawatomi Indians, Michigan and Indiana	newly recognized	1999
Snoqualmie Tribe, Washington	newly recognized	1999
Federated Indians of Graton Rancheria, California	restored	2000
Lower Lake Rancheria, California	newly recognized	2000
Shawnee Tribe, Oklahoma	newly recognized	2000
Cowlitz Indian Tribe, Washington	newly recognized	2002

Source: GAO analysis of BIA's fiscal year 2005 annual acreage reports.

^aTribe was recognized prior to 1960 and was never terminated.

Comments from the Department of the Interior



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 16 2007

Ms. Robin M. Nazzaro
Director, Natural Resources and Environment
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

Dear Ms. Nazzaro:

Thank you for the opportunity to review and comment on the Government Accountability Office (GAO) report "Indian Issues: BLM's Program for Issuing Individual Indian Allotments on Public Lands is No Longer a Viable Program."

The Bureau of Land Management (BLM) agrees with the findings and the recommendation that the Secretary of the Interior develop a proposal for the Congress to repeal Section 4 of the 1887 General Allotment Act, which provides the BLM authority to issue Indian allotments on public lands (p. 13).

As the GAO noted, public land laws and other Federal actions have limited the land available for Indian allotments under the 1887 General Allotment Act, making the BLM's program for issuing Indian allotments no longer viable (p. 5).

If you have any questions, please contact Jeff Holdren, Acting Chief, Division of Lands, Realty and Cadastral Survey, BLM, on 202-452-7779, or Andrea Nygren, Audit Liaison Officer, Division of Evaluations and Management Services, BLM, on 202-452-5153.

Sincerely,

FOR

R. M. "Johnnie" Burton
Acting Assistant Secretary
Land and Minerals Management

Enclosure IV

GAO Contact and Staff Acknowledgments

GAO Contact

Robin M. Nazzaro, (202) 512-3841, nazzaror@gao.gov

Staff Acknowledgments

In addition to the individual named above, Jeffery D. Malcolm, Assistant Director; Mark Keenan; and Carol Herrnstadt Shulman made key contributions to this report. Also contributing to the report were Jean Cook, Bart Fischer, Carol Kolarik, Greg Marchand, and Greg Wilmoth.

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