

DOI OKs First New Alaska Tribal Trust Land In Decades

By **Andrew Westney**

Law360, New York (January 13, 2017, 5:29 PM EST) -- The U.S. Department of the Interior said on Friday that it will take a parcel of land into trust for the federally recognized Craig Tribal Association in Alaska, marking the first land-into-trust action for a tribe in the state since the agency changed a rule that had blocked such acquisitions.

The DOI's Bureau of Indian Affairs **sent a letter on Oct. 7** notifying the state that the Craig Tribal Association had asked the agency to take into trust an approximately 1-acre parcel in the southern Alaska city of Craig that contains the tribe's administration building, according to a statement from the state's Department of Law at the time.

For Alaska tribal groups, the request marked a new beginning for the land-into-trust process, a means of protecting tribal lands that has long been available to tribes elsewhere in the U.S. but barred in Alaska for decades by Interior Department regulations. Alaska had strongly opposed the DOI's rule change to allow such applications, but it **abandoned a D.C. Circuit appeal** challenging the rule in the summer.

"The journey to this decision has been a long one. Today, the federally recognized tribes in Alaska have the same opportunity as those in the Lower 48 states to maintain a permanent homeland for themselves," Principal Deputy Assistant Secretary of Indian Affairs Lawrence S. Roberts said in a BIA statement.

"The decision to place the Craig Tribal Association's land into trust reflects the policies of tribal self-determination and self-governance through the restoration of tribal homelands that will benefit its current and future generations of tribal members," Roberts added.

The DOI changed its regulations following a suit by the Akiachak Native Community and others that challenged the so-called Alaska exception to federal land-into-trust laws.

Alaska Attorney General Jahna Lindemuth said in an August statement that the state wouldn't continue to appeal a split D.C. Circuit ruling in July that the court lacked jurisdiction to hear the state's bid to defend the Alaska exception, choosing to abandon the "dead-end litigation" in favor of working with the federal government and stakeholders regarding the land-into-trust process.

The DOI had already changed its regulations during the course of the litigation to apply its land-into-trust laws in Alaska, but the state had claimed that the Alaska Native Claims Settlement Act compelled the department to maintain the exception.

The Craig Tribal Association said in its October application to the BIA that it wanted the land parcel to be taken into trust for "self-determination and economic development purposes," according to the agency's letter. The land is home to the tribal administration building — which houses tribal offices, a tribal hall and commercial space currently leased to the Alaska Court System — and is subject to the city of Craig's taxes.

Craig is on Prince of Wales Island in far southeastern Alaska, toward the state's border with British Columbia.

Craig Tribal Association members and their Tlingit Shangukeidi and Haida Kaigani ancestors have long used the areas in and around Craig — called Shaanseet by the tribe — as their traditional homeland, including establishing a seasonal fishing camp site there, according to the BIA.

Having land taken into trust prevents it from being sold, alienated or transferred to non-Indians or non-Natives, and makes tribal owners eligible for federal programs for business development, housing, and environmental and cultural protection, according to the BIA.

However, the decision doesn't make the Craig Tribal Association's land eligible for gambling or affect the state's law enforcement authority over tribal lands under Public Law 280, the BIA said.

Lindemuth said in a statement Friday that the state had reviewed the application and decided that placing the parcel into trust would only have minimal impacts.

"This is a new process for all of us, and I'm appreciative that BIA gave us an extension to let the state take the time we needed to review the application," Lindemuth said in the statement. "Each parcel is unique and impacts will differ, so we are taking these on a case-by-case basis. As the BIA sends us more applications, we will continue to reach out to stakeholders and are open to input as Alaska ventures into this new territory."

Vanessa Ray-Hodge of Sonosky Chambers Sachse Endreson & Perry LLP, who represented Craig Tribal Association in its application, said the DOI's decision shows "a firm commitment by Interior to stand behind its new rule," and added that the decision marks "a historic moment, not just for the Craig Tribal Association, but for tribes in Alaska generally."

Craig Tribal Association was also represented in the application by Lloyd Miller of Sonosky Chambers Sachse Endreson & Perry.

A notice of the DOI's decision will be published in the Federal Register on Tuesday.

--Editing by Aaron Pelc.