

**Developing a Multi-Use Gaming Project  
on  
Native American Land**

***“An Introduction to  
Title Insurance for Native American Lands”***

***16<sup>th</sup> Annual Real Property, Estate Planning Symposium  
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# *An Introduction to Title Insurance for Native American Lands*

Presented by Edward D. Hellewell

## I. Is Title Insurance Available?

Title insurance is available generally for Native American lands, more often referred to as Indian Country. The limitations on availability are explored below. For the purpose of these materials, the assumption is being made that the subject land (1) is not fee simple within the jurisdiction of a state except in the discussion of “Fee-To-Trust” land, (2) is not “allotment” land, but (3) is land held in trust for a Tribe by the federal government through the Department of Interior – Bureau of Indian Affairs (“BIA”). The Native American or Indian concepts are explained more fully in the following materials. The following is written in brief, general terms and is intended to be a vehicle to introduce the reader and seminar participants to Indian Country and the principles and issues involved in providing title insurance for transactions in Indian Country. It is not a comprehensive treatise.

## II. Definitions.

- A. Allotments. Allotment is a term identifying a parcel of land beneficially owned by one or more Native Americans. These parcels of land were patented to tribe members out of tribal land. The fee simple title to the land is held by the individual allottee with a federal restraint on alienation or held in trust by the United States for their Indian owners. The differences in legal effect are negligible. The allotment of tribal land ended in 1934 with a few minor exceptions. However, thousands of allotments made before 1934 remain under federal restrictions and supervision.
- B. The Bureau of Indian Affairs (BIA) responsibility is the administration and management of 55.7 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. There are 562 federal recognized tribal governments in the United States. Developing forestlands, leasing assets on these lands, directing agricultural programs, protecting water and land rights, developing and maintaining infrastructure and economic development are all part of the agency's responsibility. In addition, the Bureau of Indian Affairs provides education services to approximately 48,000 Indian students. The BIA is a division of the Department of the Interior.
- C. Indian Country. Indian Country is defined as (1) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States whether within the

original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-or-way running through the same. (18 U.S.C. 1151)

D. Indian Lands.

1. Indian lands is an inclusive term describing:
  - a. All lands held in trust by the United States for individual Indians or tribes.
  - b. All titles to lands held by individual Indians (Allotments) or by tribes, subject to federal restrictions against alienation or encumbrance.
  - c. All lands which are subject to the rights of use, occupancy and/or benefit of certain tribes.
2. Indian lands may also include:
  - a. Land for which the title is held in fee status by Indian tribes.
  - b. U.S. Government-owned land under the jurisdiction of the Bureau of Indian Affairs (the BIA).

E. Land Titles and Records Offices (“LTRO”). Land Titles and Records Offices are those offices within the Bureau of Indian Affairs charged with the federal responsibility to record, provide custody, and maintain records that affect titles to Indian lands, to examine titles, and to provide title status reports for such land. According to 25 CFR 150.4, there are currently five regional LTRO. In addition 25 CFR 150.5 reflects that there are four other Bureau offices with title service responsibility. The BIA is currently reorganizing some functions and records for the Eastern region are in the process of being moved to the Anadarko, Oklahoma regional office. Several tribes have agreements with the BIA to handle the LTRO functions for their tribe.

F. Recordation. Recordation or recording is the acceptance of a title document by the appropriate Land Titles and Records Office. The purpose of recording is to provide evidence of a transaction, event or happening that affects land titles; to preserve a record of the title document; and to give constructive notice of the ownership and change of ownership and the existence of encumbrances to the land.

- G. Title Document. A title document is any document affecting the title to or encumbering Indian land and is required to be recorded by regulation or Bureau of Indian Affairs policy.
- H. Title Examination. Title examination means an examination and evaluation by a qualified BIA title examiner of the completeness and accuracy of title documents affecting a particular tract of Indian land with certification of the findings by the Manager of the Land Titles and Records Office.
- I. Title insurance agent. Local title companies which own title plants and perform the title search and examination on which the underwriter's title insurance policy will be issued.
- J. Title insurer or title insurance underwriter. Title insurance corporations which underwrite title insurance policies for local subsidiaries, for bar-related title assuring organizations, and for independent local title companies and abstractor and attorney agents;
- K. Title Status Report ("TSR"). A title status report is a report issued by the BIA after a title examination which shows the proper legal description of a tract of Indian land, the current ownership, including any applicable conditions, exceptions, restrictions, or encumbrances on record, and whether the land is unrestricted, restricted, in a trust, or has other status as indicated by the records in a Land Titles and Records Office

### III. Caveat

- A. Title insurance availability is not standard.
  - 1. The risk of title insurance losses in Indian country revolves around the failure to treat Indian titles carefully, according to the particular federal laws which apply to Indian land titles. Title 25 of the United States Code and federal regulations specifically address Indian matters. These statutes and related regulations must be followed strictly in situations involving tribal owners, Indian reservation lands, or land appearing to be formerly Indian lands.
  - 2. Availability may vary according to the title insurer involved.
  - 3. Title insurer requirements for issuance must be satisfied. Sample requirements are discussed later in these materials.
  - 4. Some title insurers may not be willing to insure any Native American lands. When taking into consideration the differences between fee simple land within the jurisdiction of a state and

Native American land within the jurisdiction of an Indian Tribe and the federal government, a title insurer may decide that the effort and risk is excessive. Some considerations are that the land records systems are different, the court of jurisdiction is probably tribal, time lines are different, tribal constitutions and statutes may not be in the library or on the internet, and different cultural considerations exist.

5. Various title insurers may be willing to insure commercial transactions only.
  6. Occasionally, a title insurance agent may act to insure Native American lands without the approval of a title insurer.
- B. Coverage - Exceptions and Requirements are not standard.
1. May vary with the law of the Indian Tribe.
  2. May vary with federal law generally, and with federal laws or treaties affecting the specific reservation.
  3. May depend the matters disclosed on the Title Status Report.
  4. Sample exceptions and requirements are shown on the Schedule B in the next section.

#### IV. What Title Insurance Products Are Available?

- A. American Land Title Association (“ALTA”) Commitment
- B. ALTA Loan Policy
- C. ALTA Owners Policy
- D. Schedule A - Loan Policy/Tribal Trust- modified for Native American Lands/Indian Country (Sample form attached as Exhibit A)
- E. Schedule B – Loan Policy/Tribal Trust - modified for Native American Lands/Indian Country (Sample form attached as Exhibit B)
- F. Endorsements
  1. ALTA Leasehold Endorsements – Forms 13 and 13.1
  2. Availability of some endorsements may be limited.

3. Factors affecting availability- Tribal law, federal law, Title Status Report.

G. Other Forms

V. Title Insurer Requirements

- A. Sample Requirements-Tribal Trust Land Documentation. Note - These requirements may be customized to fit a particular transaction.

1. The Tribe, Band, Pueblo, Nation, Community, Village or other group (“Tribe”) must be a federally recognized Indian tribal entity. Documentation, such as being listed in the Federal Register, must be available or furnished for review.
2. Furnish for review the existing organizational documents of the Tribe such as Constitution, Charter, Bylaws, etc. (“Constitution”), and all amendments.

*(Comment: This information should provide disclosure of the Tribe’s governing body and the procedures required for a Tribe to participate in a transaction. An opinion by the Tribe’s attorney may be necessary to confirm the appropriate governing body. Additional requirements may be made as a result of the review of such documents.)*

3. Furnish for review documentation confirming whether or not laws concerning taxation of property, a tribal registry of documents, all or part of the uniform commercial code, lien priority, or mechanic and materialmens liens have been adopted by the Tribe.

*(Comment: An opinion letter by the Tribe’s attorney addressing this issue will satisfy this requirement.)*

4. Furnish for review documentation confirming that a mortgage foreclosure procedure law has been adopted by the Tribe:
  - a. authorizing foreclosure of mortgages by tribal law procedures; or, adoption of state foreclosure procedure;
  - b. reflecting that such law was adopted in compliance with the Tribe’s laws;
  - c. designating the court or courts given jurisdiction over foreclosures.
5. If the Tribe’s foreclosure law provides for foreclosure in tribal court, then furnish for review:



- a. documentation identifying the organization of the tribal court,
  - b. any tribal court procedural rules, and
  - c. any appeals procedure.
- 6.
- a. Furnish for review documentation confirming whether the Tribe regulates the business of title insurance.
  - b. Furnish for review copies of any law, statute, code, ordinance, or resolution that refers to regulation of insurance or title insurance affecting the subject land.

*(Comment: An opinion letter by the Tribe's attorney addressing this issue may satisfy this requirement.)*

7. Furnish for review, if applicable, the lease form approved for use by the Tribe and Bureau of Indian Affairs ("BIA") for the subject transaction, or the recorded lease previously granted to the proposed mortgagor or insured.
8. Furnish for review, if applicable, the form of Mortgage approved by the Tribe and BIA.
- 9.
- a. Furnish for review the tribal law, statute, ordinance, code, or resolution which approved the authority of the tribal representatives to execute all required documents and transaction forms such as:
    - 1. Lease,
    - 2. Leasehold Mortgage,
    - 3. Deed,
    - 4. Settlement statement, and
    - 5. Closing affidavits,
  - b. Furnish for review documentation confirming that the law, statute, ordinance, code or resolution was adopted in compliance with tribal law and the tribal constitution or charter.

*(Comment: An opinion letter by the Tribe's attorney may satisfy the requirement for documentation of adoption of the authority document in compliance with tribal law and constitution/charter)*

- 10.
- a. Furnish to the title insurance agent for review a current certified BIA Title Status Report ("TSR") prior to issuance of a title insurance commitment, and
  - b. Furnish an updated, but not certified, TSR after recording of the mortgage or closing of the transaction.

11. If the transaction is commercial (i.e. does not involve individual borrowers or residential leaseholds) then furnish for review the documentation confirming that the Tribe has granted in accordance with tribal law a limited waiver of sovereign immunity which encompasses the proposed transaction(s).

*(Comment: Such waivers may appear in a tribal agreement, or a tribal law, ordinance, or resolution.)*

B. Requirements may vary with each Title Insurer

C. Requirements for allotment land will vary slightly. Consult your title insurer.

## VI. Bureau of Indian Affairs

### A. Title Status Reports

#### 1. Use.

- a. The definition of a TSR is a report issued by the BIA after a title examination which shows the proper legal description of a tract of Indian land, the current ownership, including any applicable conditions, exceptions, restrictions, or encumbrances on record, and whether the land is unrestricted, restricted, in a trust, or has other status as indicated by the records in a Land Titles and Records Office.
- b. It may be used by a title insurer or title insurance agent like a chain of title or title report that would be generated outside of Indian Country in an insurer or agent owned title plant.

#### 2. Issues

- a. Who can order?
  - Through a BIA Agency office for the tribe.
  - Some LTRO allow banks or title companies to order.
- b. Who prepares?
  - BIA Title Examiners
- c. Time of delivery.
  - Uncertain
- d. Certified v. Uncertified, updated TSR.
  - A certified TSR requires a search of the title back to when the land first acquired trust or restricted status.

- An uncertified, updated TSR requires a search back to the last certified TSR. This may not be available from all LTRO.

B. Recording of Transaction Documents.

1. Documents are submitted to the BIA Agency office for the tribe. The BIA Agency reviews the documents and then submits them to the LTRO
2. Some LTRO allow banks or title companies to submit directly. In such cases, the LTRO may ask that the BIA Agency office consent to the direct submission and be copied with the documents submitted.
3. The recording procedure and checklist used by the Aberdeen, South Dakota LTRO (Great Plains Region) for a mortgage is as follows:
  - a. Mortgage arrives in the LTRO.
  - b. The mortgage is reviewed to make sure it is recordable instrument.
  - c. Check for certificate of Approval (by Agency Superintendent).
  - d. Check the legal description for accuracy (i.e. NWNW=40).
  - e. Check - Approval Date
  - f. Check - Mortgage Date
  - g. Check - Appropriate Signatures
  - h. Check - Notary Acknowledgment
  - i. Check - Principal
  - j. The mortgage document & Certification of Approval document is recorded and document number is stamped on the face of the mortgage.
  - k. The recorded document is microfilmed. (The microfilm is retained on file in the LTRO).
  - l. Basic mortgage information is encoded to the LTRO's computer database.
  - m. Mortgage is processed in computer system.
  - n. The chain sheet is also updated to reflect basically the same land title data on the TSR.
  - o. The mortgage is manually posted to a land index. (Not all LTRO maintain a manual record.)
  - p. A new TSR is retrieved to show evidence that the mortgage has been posted against the property. In the case of a leasehold mortgage, if the lease is not reflected on the TSR, the lease is located and processed in computer database.

- q. The recorded “original” mortgage is then returned directly to the Bank (unless instructed otherwise) along with a certified TSR showing the mortgage (and lease if applicable) as an encumbrance against the property.
- r. A second certified TSR is sent to the BIA Agency (for information purposes).
- s. As an official office of record and to insure data integrity, we can only accept for recording one of the following types of documents:
  - i. An original document
  - ii. A certified copy of a document
  - iii. A copy with authentic signatures

## VII. "Fee-to-Trust".

### A. Introduction

The phrase “fee to trust” is used to simply describe the process and procedures by which the Secretary of the Interior (“Interior”) acquires interests in land, water rights, or surface rights to land for the purpose of providing land for Indians. The interests acquired are held in trust by Interior for individual Indians or tribes.

25 U.S.C. 465 is a principal authorizing act. 25 CFR, Part 151 (Sections 1- 14) is the governing regulation. The Department of Justice Title Standards 2001 currently serve as a guide for the preparation of evidence of title for all acquisitions by the United States of land or interests in land, including acquisitions by direct purchase, exchange, donation, and condemnation. These standards are application to acquisitions of land in trust for Indians and tribes. One of the unique guidelines is that the standards require that the title insurance commitment either have an expiration of not less than two years or no expiration date. The statute, the regulations, and the title standards are each relevant to insuring an acquisition by Interior for Indians.

### B. Requirements

Proof of compliance with applicable laws and regulations relating to the acquisition of title by the United States of America in trust (25 U.S.C. § 465 and 25 CFR, Part 151), including the following [Note: the following requirements are independent, and must all be satisfied in order to insure]:

1. Proof of notification of the proposed acquisition by the Secretary of the Interior to state and local governments having regulatory jurisdiction over the land (25 CFR 151.10, 151.11).

2. Confirmation that: (a) an administrative appeal has not been filed pursuant to 25 CFR Part 2, or (b) if an appeal has been filed, proof that all administrative and judicial appeal rights and remedies have been exhausted.
3. Proof of publication of the Secretary of Interior's decision to take the land into trust (may be described as "notice of final agency determination") and that Interior shall acquire title in the name of the United States no sooner than 30 days after the notice is published. 25 CFR 151.12 requires publication in either the Federal Register, or in a newspaper of general circulation serving the affected area.
4. Confirmation that more than 30 days have passed since the publication of the Secretary of the Interior's notice of final agency determination to take the land in trust, without appeal or challenge of any kind. [Requires affidavit from grantor and grantee, together with searches of the United States District Court for proceedings brought against any of the following: the United States of America, the Department of the Interior, the Secretary of the Interior) by name and /or title), the Bureau of Indian Affairs, the Interior Board of Indian Appeals, and the proposed beneficiary of the trust.] (25 CFR 151.12)
5. Issuance or approval of an instrument of conveyance by the Secretary of the Interior. [Must be dated more than 30 days after publication of the Secretary of Interior's final determination.] (25 CFR 151.14, 151.12)

Upon receipt and review of the foregoing, additional requirements and/or exceptions may be raised.

C. Issue - Uncertain local government response.

D. Issue -Uncertain time line for completion.

## VIII. Oklahoma

- A. The laws governing the Indians of Oklahoma and beyond the scope of this presentation. In many respects the statutes and legal principles generally applicable to Indians of the United States, also apply to Oklahoma Indians. The most important fields in which Oklahoma Indians have received unique treatment and which present distinctive legal problems include enrollment, property laws affecting the Five Civilized Tribes, taxation, and amount the Osages, questions of head-rights, competency, wills, and leasing.

- B Reference is sometimes made to the Five Civilized Tribes (the Cherokees, Choctaws, Chickasaws, Creeks and Seminoles), and the Osages, as if they were the only tribes resident in the State of Oklahoma. The Indian tribes residing in the state include also the Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo and Pottawatomi.
- C. Few of these tribes were indigenous to this part of the country. It was to Oklahoma, originally "Indian Territory," that Indians residing on lands desired for other purposes were moved by the United States Government.
- D. Many general statutes are made inapplicable to the Five Civilized Tribes or the Osages or to these nations and the Osages or to all tribes in Oklahoma. Congress has passed numerous special laws for Oklahoma tribes, especially for the Five Civilized Tribes and the Osages.

#### IX. Alaska

- A. In General. Some Native Alaskans ("Native") own public domain allotments, and there is one Indian reservation in the state (Metlakatla Indian Community, Annette Island Reserve), but most Native land is held under the Alaska Native Claims Settlement Act of 1971 ("ANCSA")(43 U.S.C. 1601-1629e). Based on negotiations with Native Alaskans, ANCSA extinguished Native title to most of Alaska, about 365 million acres. In return, Native Alaskans agreed to accept 44 million acres in fee, to be conveyed to Native corporations established under Alaska law and to individuals, and payments into a trust fund in the Treasury of up to \$962.5 million. Title to land conveyed is in unrestricted fee simple, but ANCSA restricted alienation of shares in the Native corporations.
- B. Tribal Sovereignty. The tribal sovereignty doctrine in Alaska applies to the one reservation, but its application to other Native lands is uncertain. Some Native Alaskan villages claim inherent sovereignty while others deny that they have sovereignty though there are provisions for waiving sovereign immunity in their constitution.

#### X. Land Subject To Native American Land Claims

- A. Because unusual legal bases supporting Indian claims to title are typically asserted and because vast settled acreage may be claimed, litigation in this area is difficult and insuring titles to affected area may likewise be difficult.
- B. Generally, title to land subject to an Indian claim may not be insured.

- C. If known claims exist, title insurers will analyze the exposure and when prudent, devise practices which will minimize the risk of insuring. Such practices have been adopted in areas currently subject to Native American land claims, allowing further insurance to be issued but sometimes with exceptions from coverage for a particular claim or group of claims.

XI. The Indian Non-Intercourse Act (25 U.S.C. 177)

- A. The act provides “No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution...”.
- B. There are cases which indicate that the restrictions against alienation apply to lands acquired by tribes through purchase. Consequently, problems arise if a tribe purchases fee simple land and wishes to encumber the land with a mortgage or sell the land in the absence of a federal statute that authorizes the transaction.
- C. Practice Tip: Unless there is a statute authorizing the transaction or the type of transaction, every sale, lease, or mortgage of Native American lands requires the approval of the Secretary of the Interior. Note - the authority of the Secretary for Indian matters is generally delegated to the BIA.

XII. Tribal Sovereignty and Sovereign Immunity.

- A. Tribal Sovereignty. It is a generally accepted principle that the tribes exercise internal sovereignty over their reservation land and tribal members except for some limited federal jurisdiction.
- B. Tribal Sovereign Immunity.
  - 1. Unless waived by the tribe or overridden by Congress, tribes have governmental immunity from suit in federal, state, or tribal courts. The immunity is similar to that of the federal and state governments, except that tribes have granted few waivers, in contrast to the waivers in federal and state law. This immunity has protected tribes against remedies such as judgments for money damages for breach of contract (leases, mortgages...), and specific performance.
  - 2. Title insurers commonly require a limited waiver of sovereign immunity for a transaction involving a tribe or a tribally controlled entity.

### XIII. Insuring Access to the Land.

- A. Documentation of access, such as an easement or license, must be confirmed. Contiguity to a federal, BIA, or state road may be acceptable provided there are no limitations on accessing the roadway.
- B. Practice Tip: If an access easement is necessary, practitioners should identify the need early in the transaction and begin the approval process. An easement requires approval of the tribe and BIA.

### XIV. Time and Timing and Procedure.

- A. The land records for Indian lands are maintained in the LTRO. BIA examiners are the only examiners authorized under current law to examine title in the LTRO records. Title insurers and title insurance agents typically depend on the TSR to issue a title insurance commitment and policy. Practitioners may expect it will take more time to produce a TSR than for production of a commitment for a non-Indian land transaction. While several LTRO have production times similar to title insurance agents, it is not uncommon to wait months for a TSR from some offices.
- B. Practice Tip: Order a TSR as soon as the legal description is identified.
- C. In addition, unless there is support from the tribe's governing entity, which may be a combination executive branch, legislative branch, and tribal business development entity, delays in obtaining documents from the tribe may be encountered.
- D. An additional factor to be considered is the timing of tribal elections. Many tribal councils are elected for one or two year terms. And in some tribes, all of the terms expire at the same time so the entire tribal council may change. This may result in the necessity of re-negotiating the transaction.

### XV. Conclusion.

Title insurance is available for interests and estates in Native American lands. However, many of the practices and procedures are different for an Indian Country transaction than would be customary for a similar transaction outside of Indian Country. Recognition of these differences can facilitate a successful transaction for all parties.



## EXHIBIT A

ALTA Loan Policy-Schedule A  
(STGC/Native American, Tribal Trust – Modified 10-10-03)

### SCHEDULE A

Order No.:

Policy No.:

Date of Policy:            at a.m./p.m.

Amount of Insurance:

1. Name of Insured:
2. The estate or interest in the land described or referred to and covered herein is the leasehold estate, in Indian lands [e.g., land held in trust for an Indian Tribe, Band, Community, Group, Pueblo or Nation (hereafter "Tribe"), or land held by any of the above subject to restrictions against alienation or encumbrance], created by the instrument herein referred to as the Lease which is identified as follows:

Lessor:

Lessee:

Dated:

Recorded:

Instrument No. or Volume/Page, etc.:

3. Title to the estate or interest in the land is vested in:
4. The insured mortgage and assignments, if any, are described as follows:
5. The land referred to in this policy is described as follows:

A portion of the \_\_\_\_\_ (name of Tribe or reservation) lands described as follows:

## EXHIBIT B

ALTA Loan Policy-Schedule B  
(STGC/Native American, Tribal Trust – Modified 10-10-03)

### SCHEDULE B

Order No.:

Policy No.: M-9995-

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

#### PART I

1. Rights of claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matter which would be disclosed by an accurate survey and inspection of the premises.
4. Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Any titles or rights asserted by anyone including, but not limited to, persons corporations governments, or other entities, to lands comprising the shores or bottoms of navigable streams, lakes, or land beyond the line of the harbor or bulkhead lines established or changed by the United States Government.
6. Unpatented mining claims, reservations or exceptions in patents or in acts authorizing the issuance thereof.
7. Taxes or assessments which are not shown as existing liens by the public records.
8. Taxes for the year \_\_\_\_\_, and thereafter.
9. Water rights, claims, or title to water.
10. *Standard regional exceptions deleted or modified consistent with local practice.\**
11. *Specific exceptions unique to the tract.\**
12. *Matters revealed (or which would be revealed) by a search and examination of public records, including BIA and tribal records.\**
13. *Matters revealed by the Bureau of Indian Affairs (BIA) Title Status Report.\**
14. Terms, conditions, and limitations of the BIA Title Status Report.
15. Right, title, interest and estate of the United States as well as its right and obligations to administer Indian land under Federal law.
16. *Matters revealed (or which would be revealed) by a review of tribal laws, codes, ordinances, rules, and regulations concerning mortgages, including priority and foreclosure.\**
17. Lack of a right of access (May be waived by a Senior Underwriter upon examination of documentation establishing a legal right of access. Such right may be required to be encumbered by the mortgage/security instrument.).
18. Terms and conditions of treaties and statutes affecting the land and the subject Tribe.

\*[NOTE: It is anticipated that those items in italics will be modified or replaced with specific exceptions. Some other exceptions may be removed upon satisfaction of Stewart's underwriting guidelines]

ALTA Loan Policy-Schedule B II  
(STGC/Native American, Tribal Trust – Modified 10-10-03)

## **PART II**

In addition to the matters set forth in Part I of this Schedule, the title to the estate or interest in the land described or referred to in Schedule [A][C] is subject to the following matters, if any be shown, but the Company insures that these matters are subordinate to the lien or charge of the insured mortgage upon the estate or interest:

THIS IS A PRO FORMA POLICY PREPARED ONLY TO FACILITATE THE ISSUANCE OF TITLE INSURANCE. IT IS NOT A REPORT ON THE CONDITION OF TITLE. DELIVERY OF IT IS NOT THE ISSUANCE OF INSURANCE. HOWEVER, IT REPRESENTS A POLICY WE CURRENTLY EXPECT TO ISSUE IF ALL OF OUR REQUIREMENTS ARE MET.

## References

7 Thompson on Real Property, Thomas Edition (David A. Thomas ed., 1994)

Title Insurance Law, Real Property, Vol. 2 (Joyce D. Palomar ed., 8/2004 update)

Handbook of Federal Indian Law, (Felix S. Cohen ed., 1942)

Manual of Indian Law, (The American Indian Lawyer Training Program, Inc. ed., 1976)