

## II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, “Delivering an Efficient, Effective, and Accountable Government,” and the President’s Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

## III. Permit Applications

### *Endangered Species*

Applicant: Point Defiance Zoo & Aquarium, Tacoma, WA; PRT–789828

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Fishing cat (*Prionailurus viverrinus*), clouded leopard (*Neofelis nebulosi*), tiger (*Panthera tigris*), Barbary serval (*Leptailurus serval constantina*), Parma wallaby (*Macropus parma*), Asian elephant (*Elephas maximus*), siamang (*Symphalangus syndactylus*), anoa (*Bubalus depressicornis*), radiated tortoise (*Astrochelys radiata*), Malayan tapir (*Tapirus indicus*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: James Madison University, Harrisonburg, VA; PRT–68971B

The applicant requests a permit to import Verreaux’s sifaka (*Propithecus verreauxi*) ear notch and hair samples from Beza Majafaly Special Reserve, Betoiky Sud, Madagascar for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: University of New Mexico, Albuquerque, NM; PRT–62228B

The applicant requests a permit to import chimpanzee (*Pan troglodytes*) and African elephant (*Loxodonta africana*) powdered tooth enamel from Makerere University Biological Field Station, Kabarole District, Uganda for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Zoological Society of San Diego, Escondido, CA; PRT–62693B

The applicant requests a permit to export one male and one female Mauritius pink pigeon (*Nesoenas mayeri*) to the United Kingdom for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: University of Pennsylvania/School of Veterinary Medicine, Philadelphia, PA; PRT–64252B

The applicant requests a permit to import biological samples from Asian elephants (*Elephas maximus*) from Melbourne Zoo, Victoria, Australia for the purpose of scientific research.

Applicant: Exotic Feline Breeding Compound Inc., Rosamond, CA; PRT–61389B

The applicant requests a permit to import one captive-bred female, snow leopard (*Uncia uncia*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Kingsley Rodrigo, Chandler, AZ; PRT–53974B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species to enhance species propagation or survival: Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), bolson tortoise (*Gopherus flavomarginatus*), aquatic box turtle (*Terrapene coahuila*), yellow-spot river turtle (*Podocnemis unifilis*), and spotted pond turtle (*Geoclemys hamiltonii*). This notification covers activities to be conducted by the applicant over a 5-year period.

### Multiple Applicants

The following applicants each request a permit to import a sport-hunted trophy of two male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Richard Rose, Houston, TX; PRT–60101B

Applicant: Jason Bryan, Cumming, GA; PRT–60258B

### Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled

from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Keith Busse, FT. Wayne, IN; PRT–67118B

Applicant: Temple Varner, Victor, MT; PRT–66736B

Applicant: Denise Alden, College Station, TX; PRT–64583B

Applicant: Robert Kielwasser, Dallas, Texas; PRT–68348B

### Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### HEARTH Act Approval of Federated Indians of Graton Rancheria Leasing Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

**SUMMARY:** On February 1, 2013, the Bureau of Indian Affairs (BIA) approved the Federated Indians of Graton Rancheria leasing regulations under the HEARTH Act. With this approval, the Tribe is authorized to enter into the following type of leases without BIA approval: Business leases.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cynthia Morales, Office of Trust Services—Division of Realty, Bureau of Indian Affairs; Telephone (202) 768–4166; Email: [cynthia.morales@bia.gov](mailto:cynthia.morales@bia.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Summary of the HEARTH Act

The HEARTH (Helping Expedite and Advance Responsible Tribal Homeownership) Act of 2012 (the Act) makes a voluntary, alternative land leasing process available to tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The Act authorizes tribes to negotiate and enter into agricultural and business leases of tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior. The Act also authorizes tribes to enter into leases for residential, recreational, religious or

educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating tribes develop tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The Act requires the Secretary to approve tribal regulations if the tribal regulations are consistent with the Department's leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the tribal regulations for the Federated Indians of Graton Rancheria.

## II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and tribal sovereignty. 77 FR 72,440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 465, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and tribal

interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to “allow tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [tribes] to approve leases quickly and efficiently.” *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting tribal economic development and self-determination, and also threaten substantial tribal interests in effective tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a tribe that, as a result, might refrain from exercising its own sovereign right to impose a tribal tax to support its infrastructure needs. See *id.* at 2043–44 (finding that State and local taxes greatly discourage tribes from raising tax revenue from the same sources because the imposition of double taxation would impede tribal economic growth).

Just like BIA's surface leasing regulations, tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See Guidance for the Approval of Tribal Leasing Regulations under the HEARTH Act, NPM-TRUS-29 (effective Jan. 16, 2013) (providing guidance on Federal review process to ensure consistency of proposed tribal regulations with Part 162 regulations and listing required tribal regulatory provisions). Furthermore, the Federal government remains involved in the tribal land leasing process by approving the tribal leasing regulations in the first

instance and providing technical assistance, upon request by a tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the tribal regulations, including terminating the lease or rescinding approval of the tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Federated Indians of Graton Rancheria.

Dated: June 17, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### HEARTH Act Approval of Mohegan Tribe of Indians of Connecticut Regulations

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** On April 8, 2014, the Bureau of Indian Affairs (BIA) approved the Mohegan Tribe of Indians of Connecticut leasing regulations under the HEARTH Act. With this approval, the Tribe is authorized to enter into the following type of leases without BIA approval: Business leases.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cynthia Morales, Office of Trust Services—Division of Realty, Bureau of Indian Affairs; Telephone (202) 768–4166; Email: [cynthia.morales@bia.gov](mailto:cynthia.morales@bia.gov).

#### SUPPLEMENTARY INFORMATION:

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