

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene M. Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW., MS-4642-MIB, Washington, DC 20240, telephone (202) 208-3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 5110) for the lands described below. These lands are proclaimed to be part of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin Reservation, in Sawyer County, Wisconsin.

Fourth Principal Meridian

Sawyer County, Wisconsin

Legal Description Containing 2012.77 Acres, More or Less

T. 40 N., R. 6 W.,

Sec. 8, that part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—27.34 acres

Sec. 10, NW $\frac{1}{4}$ SW $\frac{1}{4}$.—40.00 acres

Sec. 17, that part of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and the SW $\frac{1}{4}$ NE $\frac{1}{4}$ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—28.00 acres

Sec. 18, that part of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—20.00 acres

Sec. 21, that part of the SW $\frac{1}{4}$ lying westerly of the west line of the Chippewa Reservoir Flowage, laying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—73.90 acres

Sec. 28, that part of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$, lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—86.23 acres

Sec 32, that part SE $\frac{1}{4}$ and the S $\frac{1}{2}$ NE $\frac{1}{4}$ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—123.55 acres

T. 40 N., R. 7 W.,

Sec. 24, that part of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, the NW $\frac{1}{4}$ SW $\frac{1}{4}$, and the NE $\frac{1}{4}$ SW $\frac{1}{4}$, more particularly described as Lots One (1) and Two (2) as recorded in Volume Twenty (20) of Certified Survey Maps, pages 225–227, Survey No. 5858.—26.00 acres

Sec. 26, that part of the NE $\frac{1}{4}$ and the E $\frac{1}{2}$ NW $\frac{1}{4}$, lying southerly of the south line of the Chippewa Reservoir Flowage and lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—104.35 acres

Sec. 27, that part of the S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and the SW $\frac{1}{4}$ lying above elevation 1315', Mean Sea Level Datum, 1929 adjustment.—102.43 acres

Sec. 28, that part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ lying above elevation 1315', Mean Sea

Level Datum, 1929 adjustment, AND that part of the N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, lying westerly of the west flowage line of the Chippewa Reservoir Flowage and lying above elevation 1315', Mean Sea Level Datum, 1929 adjustment.—74.17 acres

Sec. 29, that part of the E $\frac{1}{2}$ NE $\frac{1}{4}$ lying easterly of the most easterly flowage line of the Chippewa Reservoir Flowage and lying above elevation 1315', Mean Sea Level Datum, 1929 adjustment, AND that part of the S $\frac{1}{2}$ S $\frac{1}{2}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$, lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—130.66 acres

Sec. 30, that part of Lot 1, the SW $\frac{1}{4}$ SE $\frac{1}{4}$, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ lying above elevation 1315', Mean Sea Level Datum, 1929 adjustment, AND that part of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ lying southerly of the most southern flowage line of the Chippewa Reservoir Flowage, lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—43.01 acres

Sec. 31, that part of Lots 1, 2, 3 and 4 lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—150.25 acres

Sec. 33, that part of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ lying above elevation 1315', Mean Sea Level Datum, 1929 adjustment.—86.78 acres

Sec. 34, that part of the E $\frac{1}{2}$ NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ lying above elevation 1315', Mean Sea Level Datum, 1929 adjustment.—104.10 acres

T. 40 N., R. 8 W.,

Sec. 16, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$.—240.00 acres

T. 41 N., R. 8 W.,

Sec. 33, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, EXCEPT that deeded to Sawyer County for highway purposes as described in Vol. 382 of Records, Page 172.—472.00 acres

Sec. 35, S $\frac{1}{2}$ SW $\frac{1}{4}$. 80.00 acres

Situated in Sawyer County, State of Wisconsin. Containing 2012.77 acres, more or less.

The above-described lands contain a total of 2012.77 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads and highways, public utilities and for railroads, and pipelines, and any other valid easements or rights-of-way or reservations of record.

Dated: July 21, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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AOA501010.999900]

HEARTH Act Approval of Stillaguamish Tribe of Indians' Leasing Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On July 17, 2017, the Bureau of Indian Affairs (BIA) approved the Stillaguamish Tribe of Indians' leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act. With this approval, the Tribe is authorized to enter into the following types of leases without BIA approval: Agricultural, residential, business, wind and solar, wind energy evaluation, and other authorized purposes.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS-4642-MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208-3615.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH 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 Secretary). 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 Stillaguamish Tribe of Indians.

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, 72,447–48 (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. 5108, preempts State and local taxation of permanent improvements on trust land. See *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)). Similarly, section 465 preempts State taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, No. 14–14524, *13–*17, n.8 (11th Cir. 2015). 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. See *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 Snohomish County and the State of Washington.

Dated: July 17, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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HEARTH Act Approval of the Osage Nation Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On July 17, 2017, the Bureau of Indian Affairs (BIA) approved the Osage Nation (Nation) leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Nation is authorized to enter into business site leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, telephone: (202) 208–3615.

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