

cannot guarantee that we will be able to do so.

*Abstract:* The National Park Service (NPS) Act of 1916, 38 Stat 535, 16 U.S.C. 1, *et seq.*, requires that the NPS preserve national parks for the use and enjoyment of present and future generations. This collection will provide the Glen Canyon Dam Adaptive Management Program (GCDAMP) with information about tribal stakeholder's perspectives on the condition and protection of natural and cultural resources in Glen and Grand Canyons. Identifying tribal preferences and values for natural and cultural resources in Glen and Grand Canyons is a high priority for the GCDAMP. There are substantial ongoing and prior studies exploring the preferences and values recreationists and the general public hold for resources (for example, whitewater rafting and hydropower) in Glen and Grand Canyons. However, there is almost a complete absence of relevant prior tribal socioeconomic studies exploring this information. This collection will provide information needed to inform decisions on management actions and policies related to operation of Glen Canyon Dam. This notice will cover the development and pretesting of the final survey instrument.

*Title of Collection:* Tribal Perspectives for and Values of Resources

Downstream of Glen Canyon Dam.

*OMB Control Number:* 1028-NEW.

*Form Number:* None.

*Type of Review:* New.

*Respondents/Affected Public:* Individuals/households.

*Total Estimated Number of Annual Respondents:* 350.

*Total Estimated Number of Annual Responses:* 300.

*Estimated Completion Time per Response:* 120 minutes.

*Total Estimated Number of Annual Burden Hours:* 700.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* One time.

*Total Estimated Annual Non-hour Burden Cost:* We have not identified any "non-hour cost" burdens associated with this collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

**David Lytle,**

*Director, Southwest Biological Science Center.*

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**BILLING CODE 4338-11-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[190A2100DD/AAKC001030/  
AOA501010.999900]

### HEARTH Act Approval of Mississippi Band of Choctaw Indians Regulations

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

**ACTION:** Notice.

**SUMMARY:** On March 5, 2019, the Bureau of Indian Affairs (BIA) approved the Mississippi Band of Choctaw Indians (Tribe) leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into agricultural, residential, business, wind and solar, wind energy evaluation, and other authorized purposes, leases without further BIA approval.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sharlene 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:

#### I. Summary of the HEARTH Act

The HEARTH 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 HEARTH 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 (Secretary). The HEARTH 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 HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved

the Tribal regulations for the Mississippi Band of Choctaw 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. *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 5108 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. *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).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). 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 Mississippi Band of Choctaw Indians.

Dated: March 5, 2019.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[192D0102DR/DS5A300000/  
DR.5A311.IA000118]**

#### **Draft Environmental Impact Statement for the Proposed Redding Rancheria Fee-to-Trust and Casino Project, Shasta County, California**

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

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, intends to file a Draft Environmental Impact Statement (DEIS) with the U.S. Environmental Protection Agency (EPA) in connection with the Redding Rancheria's (Tribe) application requesting that the United States acquire approximately 232 acres of land in trust in Shasta County, California, for the construction and operation of a casino resort.

**DATES:** Written comments on the DEIS must arrive within 45 days after EPA publishes its Notice of Availability in the **Federal Register**. The date and location of the public hearing on the DEIS will be announced at least 15 days in advance through a notice to be published in local newspapers (Redding Record Searchlight and Sacramento Bee) and online at <http://www.reddingeis.com>.

**ADDRESSES:** You may mail or hand-deliver written comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and "DEIS Comments, Redding Rancheria Project" on the first page of your written comments. You may also

submit comments through email to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov). If emailing comments, please use "DEIS Comments, Redding Rancheria Project" as the subject of your email.

#### **FOR FURTHER INFORMATION CONTACT:**

Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Room W–2820, Sacramento, California 95825; telephone: (916) 978–6165; email: [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov). Information is also available online at <http://www.reddingeis.com>.

**SUPPLEMENTARY INFORMATION:** The Tribe submitted an application to the Department of the Interior (Department) requesting the placement of approximately 232 acres of fee land in trust by the United States upon which the Tribe would construct a casino resort. The facility would include an approximately 69,500 square foot casino, an approximately 250-room hotel, an event/convention center, an outdoor amphitheatre, a retail center, and associated parking and infrastructure. The new facility would replace the Tribe's existing casino, and the existing casino buildings would be converted to a different Tribal use.

Accordingly, the proposed action for the Department is the acquisition requested by the Tribe. The proposed fee-to-trust property is located in an unincorporated part of Shasta County, California, approximately 1.6 miles northeast of the existing Redding Rancheria, and about two miles southeast of downtown Redding. The proposed trust property includes seven parcels, bound by Bechelli Lane on the north, private properties to the south, the Sacramento River on the west, and Interstate 5 on the east. The Shasta County Assessor's parcel numbers (APNs) for the property are 055–010–011, 055–010–012, 055–010–014, 055–010–015, 055–050–001, 055–020–004 and 055–020–005.

The following alternatives are considered in the DEIS: (1) Proposed Project; (2) Proposed Project with No Retail Alternative; (3) Reduce Intensity Alternative; (4) Non-Gaming Alternative; (5) Anderson Site Alternative; (6) Expansion of Existing Casino Alternative; and (7) No Action Alternative. Environmental issues addressed in the EIS include land resources; water resources; air quality; noise; biological resources; cultural/historical/archaeological resources; resource use patterns; traffic and transportation; public health and safety;