

*Parcel 2:* All that part of the following described PARCEL A, lying easterly of a line parallel with and 1086.40 feet easterly from the west line of the Northwest Quarter of Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, as measured at a right angle, and its extensions.

*PARCEL A:* All that land lying and being in the County of Scott and State of Minnesota described as follows, to-wit:

The North Half of the Northwest Quarter (N  $\frac{1}{2}$  of NW  $\frac{1}{4}$ ), the Southwest Quarter of the Northwest Quarter (SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ) and all that part of the Southeast Quarter of the Northwest Quarter, lying North and West of a line commencing at the Northeast corner of said tract and running through the center thereof in a direct course to the Southwest corner thereof, of Section Twenty-nine (29), and all of the above described land being in Township One Hundred Fifteen (115) North, Range Twenty-two (22) West of the 5th Principal Meridian, Scott County, Minnesota, according to the Government Survey thereof, excepting the East two (2) rods of the above described land being subject to a road easement;

*and excepting therefrom:* The Northwest Quarter of the Southeast Quarter of Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota. Together with that part of the Southwest Quarter of the Northeast Quarter of said Section 29, lying South of the North 363.00 feet of said Southwest Quarter of the Northeast Quarter;

*and excepting therefrom:* The East 400.00 feet of the Northeast Quarter of the Northwest Quarter of Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota. Subject to an easement for Highway purposes over the North 75.00 feet at designated in Document No. 148471. Together with that part of the East 400.00 feet of the Southeast Quarter of the Northwest Quarter of said Section 29, lying Northwesterly of a line drawn from the Northeast corner of said Southeast Quarter of the Northwest Quarter, Southwesterly to the Southwest corner of said Southeast Quarter of the Northwest Quarter;

*and excepting therefrom:* A tract of land in the Northwest Quarter (NW  $\frac{1}{4}$ ) of Section 29, Township 115 North, Range 22 West of the Fifth Principal Meridian; Scott County, Minnesota described as follows: Beginning at the Southwest corner of said Northwest Quarter (NW  $\frac{1}{4}$ ) and thence East along the South line thereof a distance of 160.2 feet to the center line of County Road No. 17; thence Northwesterly along said center line to its intersection with the West line of said Northwest Quarter (NW  $\frac{1}{4}$ ); thence South along said West line to the point of beginning; subject to said road right-of-way.

*Parcel 3:* The East 400 feet of the Northeast Quarter of the Northwest Quarter of Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County Minnesota AND that part of the East 400 feet of the Southeast Quarter of the Northwest Quarter of said Section 29, lying northwesterly of a line drawn from the northeast corner of said Southeast Quarter of the Northwest Quarter, southwesterly to the

southwest corner of said Southeast Quarter of the Northwest Quarter, according to the United States Government Survey thereof and situate in Scott County, Minnesota.

*Parcel 4:* All that part of the Southeast Quarter of the Northwest Quarter (SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ) of Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, lying South and East of a line commencing at the Northeast corner thereof and running through the center thereof in a direct line to the Southwest corner thereof,

Together with a non-exclusive easement for travel purposes over and across the East two rods of the Northeast Quarter of the Northwest Quarter (NE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ) and that part of the SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ , Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, described as follows: Commencing at the Northeast corner of the SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$ ; thence West on the North line of said SE  $\frac{1}{4}$  of NW  $\frac{1}{4}$  2 rods; thence South 2 rods; thence in a Northeasterly direction 2 rods to the point of beginning.

*Parcel 5:* The North 363.00 feet of the Southwest Quarter of the Northeast Quarter (SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$ ), excepting therefrom the east 300 feet, Section 29, Township 115 North, Range 22 West of the 5th Principal Meridian, according to the United States Government Survey thereof and situate in Scott County, Minnesota.

#### Abstract Property

The above described lands contain a total of 166.13 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record. The above described lands contain a combined total of 276.25 acres, more or less. This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads, highways, public utilities, railroads and pipelines, or any other valid easements or rights-of-way or reservations of record.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[212A2100DD/AAKC001030/  
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#### HEARTH Act Approval of the Cahuilla Band of Indians, California Leasing Ordinance

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

**ACTION:** Notice.

**SUMMARY:** The Bureau of Indian Affairs (BIA) approved the Cahuilla Band of

Indians Leasing Ordinance under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Tribe is authorized to enter into business and residential leases without further BIA approval.

**DATES:** BIA issued the approval on January 6, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, [sharelene.roundface@bia.gov](mailto:sharelene.roundface@bia.gov), (505) 563-3132.

#### 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 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 Cahuilla Band of Indians, California.

##### 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 72440, 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. 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*, 799 F.3d 1324, 1331, 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 72447–48, 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.” H. Rep. 112–427 at 6 (2012).

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*, 572 U.S. 782, 810 (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 810–11 (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 Cahuilla Band of Indians, California.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[BAC 4331–11]

#### Notice of Public Meetings of the Idaho Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meetings.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior Bureau of Land Management’s (BLM) Idaho Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The BLM Idaho RAC will meet on Wednesday, April 14, 2021. The meeting will be held from 9:00 a.m. to 5:00 p.m. (Mountain Standard Time). The RAC will also meet Wednesday, August 11, 2021. The meeting will be held from 9:00 a.m. to 5:00 p.m. (Mountain Standard Time).

**ADDRESSES:** The April 21, 2021, meeting will be held virtually.

The August 11, 2021, meeting is scheduled to be held at the BLM Idaho State Office, located at 1387 South Vinnell Way, Boise, Idaho 83709, in the Sagebrush/Ponderosa conference rooms. There will be an option to participate virtually as well. Virtual participation information will be posted online 2 weeks in advance of each meeting at <https://www.blm.gov/get-involved/resource-advisory-council/near-you/idaho>.

**FOR FURTHER INFORMATION CONTACT:** MJ Byrne, 1387 South Vinnell Way, Boise, Idaho 83709; (208) 373–4006; [mbyrne@blm.gov](mailto:mbyrne@blm.gov). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Idaho RAC is chartered, and the 15 members are appointed by the Secretary of the Interior. Their diverse perspectives are