

conservation and related scientific and advocacy activities

- American Indian/Alaska Native/Indigenous organizations
- Academia
- Other sectors, environmental justice organizations, private industry

Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable DOI to make an informed decision regarding meeting the membership requirements of the Council and to permit DOI to contact a potential member.

Members of the Council serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council or subcommittee business that the DFO approves may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Certification Statement: I hereby certify that the Advisory Council for Climate Adaptation Science is necessary, in the public interest, and is in connection to the responsibilities of the Department of the Interior under Section 2 of the Reorganization Plan No. 3 of 1950 (64 Stat. 1262) as amended, and the Consolidated Appropriations Act of 2008, Public Law 110–161 Division F, Title I. The Council is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. Appendix 2.

Authority: 5 U.S.C. Appendix 2.

Deb Haaland,

Secretary, Department of the Interior.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/
A0A501010.999900]

HEARTH Act Approval of Pawnee Nation of Oklahoma Leasing Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) approved the Pawnee Nation of Oklahoma 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 agricultural, business, residential, wind and solar, public, religious, educational, recreational, cultural, and other purposes leases without further BIA approval.

DATES: BIA issued the approval on November 22, 2022.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Clark, Bureau of Indian Affairs, Division of Real Estate Services, 1001 Indian School Road NW, Albuquerque, NM 87104, *carla.clark@bia.gov*, (702) 484–3233.

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 Pawnee Nation of Oklahoma.

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 Pawnee Nation of Oklahoma.

Bryan Newland,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[234 LLUT925000 L14400000.BJ0000 241A]

Filing of Plats of Survey; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing.

SUMMARY: The Bureau of Land Management (BLM) publishes this notice to inform the public of the official filing of the plats of survey of the lands described below in the BLM Utah State Office, Salt Lake City, Utah.

DATES: The plats of survey have been officially filed on the dates indicated below.

ADDRESSES: Written notices protesting a survey must be sent to the Utah State Director, BLM Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101-1345.

FOR FURTHER INFORMATION CONTACT: Matthew J. Kurchinski, Chief Cadastral Surveyor for Utah, BLM, Branch of Geographic Sciences, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101-1345, telephone (801) 539-4139, or email mkurchin@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please contact mkurchinski@blm.gov for more or for accommodation.

SUPPLEMENTARY INFORMATION: The plats of survey described below represent

surveys executed at the request of the BLM, Bureau of Indian Affairs (BIA) and the National Park Service (NPS) and are necessary for the management of these lands. The lands surveyed are represented on the following plats of survey:

Salt Lake Meridian, Utah

T. 11 S, R. 17 W, Group No. 1341, prepared at the request of the BLM, was accepted September 23, 2022, and officially filed October 14, 2022.

T. 12 S, R. 17 W, Group No. 1341, prepared at the request of the BLM, was accepted September 23, 2022, and officially filed October 14, 2022.

T. 11 S, R. 18 W, Group No. 1341, prepared at the request of the BLM, was accepted September 23, 2022, and officially filed October 14, 2022.

T. 12 S, R. 18 W, Group No. 1341, prepared at the request of the BLM, was accepted September 23, 2022, and officially filed October 14, 2022.

T. 35 S, R. 3 E, Group No. 1452, prepared at the request of the BLM, was accepted April 4, 2022, and officially filed April 11, 2022.

T. 43 S, R. 3 E, Group No. 1429, prepared at the request of the NPS, was accepted September 30, 2022, and officially filed October 14, 2022.

T. 42 S, R. 4 E, Group No. 1429, prepared at the request of the NPS, was accepted September 30, 2022, and officially filed October 14, 2022.

T. 42 S, R. 5 E, Group No. 1429, prepared at the request of the NPS, was accepted September 30, 2022, and officially filed October 14, 2022.

T. 42 S, R. 15 E, Group No. 1468, prepared at the request of the BIA, was accepted September 26, 2022, and officially filed October 14, 2022.

T. 39 S, R. 22 E, Group No. 1472, prepared at the request of the BIA, was accepted September 30, 2022, and officially filed October 14, 2022.

T. 43 S, R. 25 E, Group No. 1462, prepared at the request of the BIA, was accepted September 23, 2022, and officially filed October 27, 2022.

Copies of the plats of survey and related field notes are available for public review in the BLM Utah State Office as a matter of information.

A person or party who wishes to protest one or more of the above surveys must file a written notice within 30 calendar days from the date of this publication with the Utah State Director, BLM, at the address listed in the **ADDRESSES** section, stating they wish to protest. The notice of protest must identify the plat(s) of survey the person or party wishes to protest. A statement of reasons for the protest, if not filed with the notice of protest, must be filed with the Utah State Director within 30 calendar days after the notice of protest is filed.

Before including your address, phone number, email address, or other