Indian Affairs - Office of Public Affairs

Twenty-three tribes now can approve and manage surface leases on tribal lands, exercising self-determination and tribal governance within their homelands

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WASHINGTON – In keeping with President Obama's commitment to tribal self-governance and strengthening tribal economies, acting Assistant Secretary – Indian Affairs Lawrence S. Roberts today announced that Ohkay Owingeh now has the sovereign authority to lease tribal lands consistent with the Helping Expedite and Advance Responsible Tribal Homeownership (or HEARTH) Act. Roberts was joined by Ohkay Owingeh Governor Earl N. Salazar and United States Senator Martin Heinrich at a signing ceremony approving the tribe's leasing regulations that took place yesterday at the Pueblo in New Mexico.

"I congratulate Governor Salazar and the Ohkay Owingeh council for their leadership in using the HEARTH Act to end the paternalistic policy of federal approval of tribal leasing decisions," acting Assistant Secretary Roberts said. "Ohkay Owingeh joins a growing number of tribes that are exercising sovereignty over the leasing of their lands to promote the health, welfare and prosperity of their people. By this action, decision making over the use of tribal land is now squarely in the hands of the tribal government. I am very pleased that Ohkay Owingeh has exercised this power to use its own judgment for its own lands."

"We are now able to establish and carry out these laws. As an entrepreneurial tribe, we look forward to working with local businesses," Governor Salazar said. "It all comes back to sovereignty and, finally, we have control over our land to help support our people."

"I'm honored to join the people of Ohkay Owingeh to mark this milestone in strengthening self-determination and tribal sovereignty, and open doors to more jobs and economic development in Indian Country," Senator Heinrich said. "The last thing the federal government should do is stand in the way of a family who wants to buy a home. This agreement through the HEARTH Act will make it easier for Native families to buy houses and open businesses in the communities where their families have lived for generations."

The acting Assistant Secretary's action confirms that federal approval is no longer necessary for Ohkay Owingeh, a federally recognized tribe in north central New Mexico, to enter into surface land leases. The Pueblo will exercise authority over leases for agricultural, business, cultural, educational, residential, wind and solar power, and other authorized purposes.

The HEARTH Act creates a voluntary, alternative land leasing process available to federally recognized tribes once their governing leasing regulations have been approved by the Secretary of the Interior. Tribes with approved regulations are authorized to negotiate and enter into surface leases without further approvals by the Secretary. The Act authorizes tribes to execute agricultural and business

leases of tribal trust lands for a primary term of 25 years and up to two renewal terms of 25 years each. Leases of tribal trust lands for residential, recreational, religious or educational purposes may be executed for a primary term of up to 75 years.

The HEARTH Act eliminates the paternalistic approval process codified in federal law and recognizes the authority of federally recognized tribes to develop and implement their own laws governing the long-term leasing of their trust lands for residential, business, renewable energy, and other purposes. Tribes that use the HEARTH Act procedure eliminate the Bureau of Indian Affairs (BIA) approval process for surface land leases, thereby greatly expediting tribal leasing for homes, businesses and other purposes in Indian Country.

The principles supporting the federal preemption of state law in the field of Indian leasing and the taxation of lease-related interests and activities apply with equal force to leases issued by tribes that have utilized the HEARTH Act.

In accordance with federal law and the Department's regulations governing the surface leasing of trust and restricted Indian lands, tribal leases are subject to tribal, not state and local, taxation.

The HEARTH Act was intended to promote tribal sovereignty by empowering tribal governments to adapt lease terms that suit their business and cultural needs and to promote approval of leases quickly and efficiently. Therefore, the assessment of state and local taxes would obstruct the federal policies of supporting tribal economic development and self-determination. Such taxation would also threaten tribal interests in effective tribal government, economic self-sufficiency and territorial autonomy.

With the acting Assistant Secretary's action today, 23 federally recognized tribes now have utilized the HEARTH Act:

- Federated Indians of Graton Rancheria, Calif. (Business)
- Pueblo of Sandia, N.M. (Business)
- Pokagon Band of Potawatomi Indians, Mich. (Residential)
- Ak-Chin Indian Community, Ariz. (Business)
- Santa Rosa Band of Cahuilla Indians, Calif. (Business)
- Citizen Potawatomi Nation, Okla. (Business)
- Ewiiaapaayp Band of Kumeyaay Indians, Calif. (Business)
- Kaw Nation, Okla. (Business)
- Jamestown S'Klallam Tribe, Washington State (Business)
- Dry Creek Rancheria Band of Pomo Indians, Calif. (Business)
- Wichita and Affiliated Tribes, Okla. (Business)
- Mohegan Tribe of Indians of Connecticut (Business)
- Agua Caliente Band of Cahuilla Indians, Calif. (Business)
- Seminole Tribe of Florida (Individual Business and Residential Ordinances)
- Cowlitz Indian Tribe, Washington State (Business)
- Oneida Indian Nation, N.Y. (Business)
- Ho-Chunk Nation of Wisconsin (Business, Residential and Agricultural Codes)
- Absentee-Shawnee Tribe of Indians of Oklahoma (Business)
- Rincon Band of Luiseno Mission Indians, Calif. (Business)
- Makah Indian Tribe, Wash. (Residential, Business, Renewable Energy)
- Squaxin Island Tribe, Wash. (Business)

- Gila River Indian Community, Ariz. (Business and Solar)

Under the leadership of Senator Heinrich, Congress passed the HEARTH Act with overwhelming bipartisan support. It was signed by President Obama on July 30, 2012.

The Assistant Secretary – Indian Affairs oversees the BIA, which is headed by a director who is responsible for managing day-to-day operations through four offices – Indian Services, Justice Services, Trust Services, and Field Operations. These offices directly administer or fund tribally based infrastructure, law enforcement, social services, tribal governance, natural and energy resources, and trust land and resources management programs for the nation's federally recognized American Indian and Alaska Native tribes through 12 regional offices and 81 agencies. The BIA's Office of Trust Services administers the HEARTH Act leasing approval process.
