Action on Makah and Squaxin Island Tribes' requests brings to 22 the number of federally recognized tribal governments with authority to approve and manage leases on their trust lands without BIA approval

Media Contact: Nedra Darling, OPA-IA Phone: 202-219-4152
For Immediate Release: August 25, 2015
Print PDF

WASHINGTON, D.C. – In keeping with President Obama's commitment to empowering tribal nations and strengthening their economies, Assistant Secretary – Indian Affairs Kevin K. Washburn today announced that he has approved land leasing regulations from the Makah Indian Tribe and the Squaxin Island Tribe in Washington State pursuant to the Helping Expedite and Advance Responsible Tribal Homeownership (or HEARTH) Act.

"As more tribes see the possibilities of using their lands that the HEARTH Act has made available to them, the Department will be able to further support their goals of meeting their communities' needs and achieving economic self-sufficiency," Washburn said. "I congratulate the leadership of the Makah Indian Tribe and the Squaxin Island Tribe on this success as they continue working for the greater economic good of all their peoples."

The Assistant Secretary's action authorizes the two tribes to enter into land leases without having to obtain approval by the Bureau of Indian Affairs (BIA): Neah Bay-based Makah Indian Tribe for residential, business, wind and solar development, and other authorized purposes, and the Squaxin Island Tribe, headquartered in Shelton, Wash., for business.

"The Makah Tribal Council is looking forward to implementing the HEARTH Act. We will now be able to efficiently streamline the approval of leases that are of the utmost importance to our tribal development priorities," said Makah Indian Tribe Chairman Timothy J. Greene Sr. "This exercise of sovereignty will encourage investment and economic development throughout our community."

"It's great to see leasing approval back with the Tribe," said Squaxin Island Tribe Chairman David Lopeman. "I'm hopeful this new tool will help the Squaxin Island Tribe benefit the region with new jobs and opportunities."

The HEARTH Act restores the authority of federally recognized tribes to develop and implement their own laws governing the long-term leasing of Indian lands for residential, business, renewable energy, and other purposes. Upon one-time approval of their regulations by the Department of the Interior, tribes then have the authority to process land leases without BIA approval, thereby greatly expediting leasing approval for homes and small businesses in Indian Country.

In addition, 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.

In accordance with Section 5 of the Indian Reorganization Act (25 U.S.C. 465) and the Department's regulations governing the surface leasing of trust and restricted Indian land, permanent improvements, leasehold or possessory interests, and activities on land leased under DOI-approved HEARTH Act tribal leasing regulations are subject to tribal, not state and local, taxation.

As the HEARTH Act was intended to afford tribes the flexibility to adapt lease terms to suit their business and cultural needs and to enable them to approve leases quickly and efficiently, assessment of state and local taxes would obstruct these express federal policies of supporting tribal economic development and self-determination as well as threaten tribal interests in effective tribal government, economic self-sufficiency and territorial autonomy.

With their new authority, the two tribes, whose reservations include fractionated lands, may now consider what uses they may wish to pursue with regards to fractional interests in trust land that were repurchased and restored to them by the Department under the Land Buy-Back Program for Tribal Nations. The Buy-Back Program, which was established by the historic Cobell Settlement, represents a federal policy initiative to restore tribal homelands in support of tribal sovereignty and self-government to the maximum extent possible on tribal trust lands. The fractional interests received by the Makah Indian Tribe and the Squaxin Island Tribe are equivalent to approximately 64 acres and 155 acres, respectively.

The Assistant Secretary's action brings to 22 the number of federally recognized tribes whose land leasing regulations have been approved by the Department under the HEARTH Act. The tribes with approved leasing regulations are:

- 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)
- Navajo Nation General Leasing Regulations, Ariz., N.M. and Utah
- 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)

Both the Absentee-Shawnee Tribe's and the Rincon Band of Luiseno Mission Indians' regulations were approved in June 2015.

Congress passed the HEARTH Act with overwhelming bipartisan support, and 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.
