

## Next Steps

We will evaluate the HCP, as well as any comments we receive, to determine whether implementation of the HCP would meet the criteria for issuance of a permit under section 10(a)(1)(B) of the ESA. We will also evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will consider the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue a permit to the ODOT. We will not make the final NEPA and permit decisions until after the end of the 30-day public comment period on this notice, and we will fully consider all comments we receive during the public comment period. If we determine that the permit issuance requirements are met, the Service will issue a permit to the ODOT.

## Authority

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

## Paul Henson,

*Oregon State Supervisor, U.S. Fish and Wildlife Service, Portland, Oregon.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### Indian Gaming

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

**ACTION:** Notice of extension of Tribal—State Class III Gaming Compact.

**SUMMARY:** This publishes notice of the Extension of the Class III gaming compact between the Rosebud Sioux Tribe of the Rosebud Indian Reservation and the State of South Dakota.

**DATES:** Effective October 5, 2015.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** Pursuant to 25 CFR 293.5, an extension to an existing tribal-state Class III gaming compact does not require approval by the Secretary if the extension does not

include any amendment to the terms of the compact. The Rosebud Sioux Tribe of the Rosebud Indian Reservation and the State of South Dakota have reached an agreement to extend the expiration of their existing Tribal-State Class III gaming compact to February 5, 2016. This publishes notice of the new expiration date of the compact.

Dated: September 29, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

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### List of Programs Eligible for Inclusion in Funding Agreements Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs and Fiscal Year 2015 Programmatic Targets

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Notice.

**SUMMARY:** This notice lists programs or portions of programs that are eligible for inclusion in funding agreements with self-governance Indian tribes and lists Fiscal Year 2015 programmatic targets for each of the non-Bureau of Indian Affairs (BIA) bureaus in the Department of the Interior, pursuant to the Tribal Self-Governance Act.

**DATES:** Submit written comments on this notice on or before November 4, 2015.

**ADDRESSES:** Send written comments to Ms. Sharee M. Freeman, Director, Office of Self-Governance (MS 355H-SIB), 1849 C Street NW., Washington, DC 20240-0001, telephone: (202) 219-0240, fax: (202) 219-1404, or to the bureau-specific points of contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Inquiries regarding this notice may be directed to Ms. Sharee M. Freeman at (202) 219-0240.

### SUPPLEMENTARY INFORMATION:

#### I. Background

Title II of the Indian Self-Determination Act Amendments of 1994 (Pub. L. 103-413, the “Tribal Self-Governance Act” or the “Act”) instituted a permanent self-governance program at the Department of the Interior. Under the self-governance program, certain programs, services, functions, and activities, or portions thereof, in Interior bureaus other than

BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance tribe.

Under section 405(c) of the Tribal Self-Governance Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program; and (2) programmatic targets for these bureaus.

Under the Tribal Self-Governance Act, two categories of non-BIA programs are eligible for self-governance funding agreements:

(1) Under section 403(b)(2) of the Act, any non-BIA program, service, function, or activity that is administered by Interior that is “otherwise available to Indian tribes or Indians,” can be administered by a tribe through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, as amended). Section 403(b)(2) also specifies, “nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law.”

(2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of “special geographic, historical, or cultural significance” to a self-governance tribe.

Under section 403(k) of the Tribal Self-Governance Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe. However, a tribe (or tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, the non-BIA Bureaus will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances. In those instances where the tribe disagrees with the Bureau’s determination, the tribe may request reconsideration from the Secretary.