

organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

#### Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR, part 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: September 6, 2002.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 02–24011 Filed 9–19–02; 8:45 am]

BILLING CODE 4310–W7–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Picayune Rancheria of Chukchansi Indians Liquor Control Ordinance

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

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Picayune Rancheria of Chukchansi Indians Liquor Control Ordinance. The Ordinance regulates the control, possession, and sale of liquor on the Picayune Rancheria trust lands to be in conformity with the laws of the State of California where applicable and necessary. Although the Ordinance was adopted on December 27, 2001, it does not become effective until published in the **Federal Register**, because the failure to comply with the ordinance may result in criminal charges.

**DATES:** This Ordinance is effective on September 20, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Kaye Armstrong, Office of Tribal Services, 1849 C Street, NW., MS 4631–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country.

The Picayune Rancheria Liquor Control Ordinance, Resolution No. 2001–38, was duly adopted by the Tribal Council of the Picayune Rancheria on December 27, 2001. The Picayune Rancheria, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the Picayune Rancheria.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

I certify that by Resolution 2001–38, the Picayune Rancheria Liquor Control Ordinance was duly adopted by the Picayune Rancheria Tribal Council on December 27, 2001.

Dated: September 9, 2002.

**Neal A. McCaleb,**

*Assistant Secretary—Indian Affairs.*

The Picayune Rancheria Liquor Control Ordinance, Resolution No. 2001–38, reads as follows:

#### Picayune Rancheria of Chukchansi Indians Liquor Control Ordinance

Article I—Declaration of Public Policy and Purpose

Section 1.1. The importation, distribution, possession, consumption and sale of liquor within the exterior boundaries of the Picayune Rancheria is a matter of special concern to the members of the Picayune Rancheria of Chukchansi Indians (the Tribe).

Section 1.2. Federal law, as codified at 18 U.S.C. 1154, 1161, currently prohibits the introduction of liquor into Indian country, except in accordance with State law and the duly enacted law of the Tribe. By adoption of this Ordinance, it is the intention of the Tribal Council to establish tribal law regulating the sale, distribution and consumption of liquor on tribal lands and to ensure that such activity conforms with all applicable provisions of the laws of the State of California.

Section 1.3. The Tribal Council, as the governing body of the Tribe pursuant to its Constitution, has power to: (i) Promulgate and enforce ordinances governing the conduct of members of the Tribe and non-members within the Tribe's jurisdiction; (ii) regulate the conduct of business activities within the exterior boundaries of the Rancheria; and (iii) safeguard the peace, safety, morals and general welfare of the Tribe. Accordingly, the Tribal Council has determined that it is in the best interest of the Tribe to enact a tribal ordinance governing the importation, distribution, sale, possession, and consumption of liquor within the exterior boundaries of the Picayune Rancheria (the Rancheria). By Tribal Council Resolution No. 2001–38, the Tribal Council has adopted this Ordinance for the regulation of the importation,

distribution, sale, possession and consumption of liquor on the Rancheria.

Section 1.4. The Tribal Council has determined that only licensed Liquor Operators, as defined herein, shall be permitted to import, distribute or sell liquor on the Rancheria pursuant to this Ordinance, and the purchase, distribution and sale of liquor shall take place only at duly licensed tribally-owned enterprises and at tribally-sanctioned special events, as operated on tribal lands.

Section 1.5. The Tribal Council has determined that any importation, possession, consumption, sale or other commercial distribution of liquor on the Rancheria, other than sales and distribution in strict compliance with this Ordinance, is detrimental to the health, safety and welfare of the members of the Tribe and is therefore prohibited.

Section 1.6. Based upon the foregoing findings and determinations, the Tribal Council hereby enacts this Liquor Control Ordinance (the Ordinance) as follows:

#### Article II—Definitions

As used in this Ordinance, the following words shall have the following meanings, unless the context clearly requires otherwise.

Section 2.1. *Alcohol.* That substance known as ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, which is commonly produced by the fermentation, or distillation of grain, starch, molasses or sugar, or other substances including dilutions and mixtures of this substance.

Section 2.2. *Alcoholic Beverage.* Identical in meaning to the term Liquor as defined herein.

Section 2.3. *Beer.* Any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent (4%) of alcohol by volume. For the purpose of this Ordinance, any such beverage, including ale, stout, and porter, containing more than four percent (4%) of alcohol by weight shall be referred to as Strong Beer.

Section 2.4. *Gaming Compact.* The federally approved Tribal-State Compact, dated September 10, 1999, between the State of California and the Tribe.

Section 2.5. *Liquor.* The four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor or combinations thereof, and mixed liquor, or a part of which is fermented, spirituous, vinous, or malt liquor, or otherwise intoxicating; and every other liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substances that contain more than one percent (1%) of alcohol by weight, shall be conclusively deemed to be intoxicating.

Section 2.6. *Liquor Operator.* Any licensed importer, licensed wholesaler, or licensed retailer of liquor pursuant to this Ordinance.

Section 2.7. *Licensed Importer.* A person, duly licensed by the Tribal Council and the

State, who imports liquor onto the Rancheria for ultimate sale on the Rancheria.

Section 2.8. *Licensed Retailer*. A retail seller of liquor that is duly licensed by the Tribal Council and the State.

Section 2.9. *Licensed Wholesaler*. A wholesale seller of liquor that is duly licensed by the Tribal Council and the State.

Section 2.10. *Malt Liquor*. Includes beer, strong beer, ale, stout and porter.

Section 2.11. *Management Agreement*. The agreement dated October 15, 1999, and all amendments made thereto, made between the Picayune Rancheria of Chukchansi Indians, the Chukchansi Economic Development Authority and Cascade Entertainment Group, LLC.

Section 2.12. *Package*. Any container or receptacle used for holding liquor.

Section 2.13. *Person*. Any individual, partnership, corporation or other business entity or association.

Section 2.14. *Public Place*. Includes gaming facilities and commercial or community facilities of every nature which are open to and/or generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds and character, and all other places within the exterior boundaries of the Rancheria of like or similar nature to which the general public has unrestricted access and which generally are used by the public.

Section 2.15. *Sale and Sell*. Any exchange, barter, and traffic, including the selling of or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor, or of wine, by any person to any person.

Section 2.16. *Special Event*. Any social, charitable or for-profit discreet activity or event conducted by the Tribal Council or any tribal enterprise on tribal lands at which liquor is sold or proposed to be sold.

Section 2.17. *Special Event Site*. The physical location within Rancheria boundaries where a Special Event is held or proposed to be held.

Section 2.18. *Spirits*. Any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent (17%) of alcohol by weight.

Section 2.19. *State Law*. The duly enacted applicable laws and regulations of the State of California, specifically, Division 9—Alcoholic Beverages, as set forth at California Business and Professions Code Division 9, Sections 23000 through 25762, as amended from time to time, and all applicable provisions of the Compact.

Section 2.20. *Tribal Council*. The duly elected Tribal Council of the Tribe in accordance with the Constitution of the Picayune Rancheria of Chukchansi Indians.

Section 2.21. *Tribe*. The Picayune Rancheria of Chukchansi Indians, as governed by its Constitution.

Section 2.22. *Tribal Enterprise*. Any business entity, operation or enterprise owned, in whole or in part, by the Tribe.

Section 2.23. *Tribal Land*. All land within the exterior boundaries of the Picayune Rancheria.

Section 2.24. *Wine*. Any alcoholic beverage obtained by fermentation of any fruits

(grapes, berries, apples, *etc.*), or fruit juice and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent (17%) of alcohol by weight.

#### Article III—Enforcement

Section 3.1. *Tribal Council Powers*. The Tribal Council, in furtherance of the Ordinance, shall have the power and duty to:

(a) Publish and enforce such rules and regulations, consistent with this Ordinance, governing the possession, distribution, purchase, sale and/or consumption of alcoholic beverages in public places on the Rancheria as the Tribal Council deems necessary;

(b) Employ managers, accountants, clerks, security personnel, inspectors and such other persons as shall be reasonably necessary to allow the Tribal Council to exercise its authority as set forth in this Ordinance;

(c) Issue licenses permitting the importation, possession, sale and/or distribution of liquor on the Rancheria;

(d) Hold hearings on violations of this Ordinance or for the issuance, suspension or revocation of licenses hereunder;

(e) Bring suit in the appropriate court to enforce this Ordinance as necessary;

(f) Determine and seek damages for violation of this Ordinance;

(g) Publish notices and make such reports to the Tribe as may be appropriate;

(h) Collect taxes and fees levied or set by the Tribal Council on liquor sales and the issuance of licenses, and keep accurate records, books and accounts;

(i) Take or facilitate all action necessary to follow or implement applicable provisions of State law as required;

(j) Cooperate with appropriate State of California authorities for purposes of prosecution of any violation of any criminal law of the State of California; and

(k) Exercise such other powers as may be necessary to carry out the purposes of this Ordinance.

Section 3.2. *Limitation on Powers*. In the exercise of its powers and duties under this Ordinance, the Tribal Council and its individual members, employees and agents shall not:

(a) Accept any gratuity, compensation or other thing of value from any Liquor Operator, including a wholesaler, retailer or distributor, or from any licensee, unless such gratuity, compensation or other thing of value is used directly for marketing and/or promotion only;

(b) Waive the immunity of the Tribe from suit except by express resolution of the Tribal Council, such waiver being subject to the following limitation: the waiver must be transaction specific, limited as to duration and beneficiary, including a provision that limits recourse only to specified assets or revenues of the Tribe or a tribal entity, and specifies the process and venue for dispute resolution, including applicable law; or

(c) Violate the terms of any contract validly executed by the Tribe.

Section 3.3. *Inspection Rights*. The public places on or within the Rancheria where liquor is sold or distributed shall be open for

inspection by the Tribal Council or its designees at all reasonable times for the purposes of ascertaining compliance with this Ordinance and other regulations promulgated pursuant hereto.

#### Article IV—Liquor Sales

Section 4.1. *Restricted Locations and License Required*. No possession, distribution or sale of liquor shall occur on or within public places within the exterior boundaries of the Rancheria, except (i) at a tribal enterprise or an authorized special event, located on tribal lands; and (ii) by a duly licensed Liquor Operator.

Section 4.2. *Retail Sales for Cash*. All retail liquor sales within the Rancheria shall be on a cash only basis and no credit shall be extended to any person, organization or entity, except that this provision does not prevent the payment for purchases with the use of cashiers or personal checks, payroll checks, debit credit cards or credit cards issued by any financial institution.

Section 4.3. *Wholesale and Import Sales*. All purchases and sales of liquor by importers and wholesalers of liquor may be by cash or credit, in accordance with the normal business practices for such industries within the State of California.

Section 4.4. *Sale for Personal Consumption*. Except for sales by licensed importers and licensed wholesalers, all sales shall be for the personal use and consumption of the purchaser or members of the purchaser's household, including guests, who are over the age of twenty-one (21) years. Resale of any alcoholic beverage purchased within the exterior boundaries of the Rancheria is prohibited. Any person who is not licensed pursuant to this Ordinance who purchases an alcoholic beverage within the boundaries of the Rancheria and re-sells it, whether in the original container or not, shall be guilty of a violation of this Ordinance and shall be subjected to exclusion from tribal lands or liability for money damages up to five hundred (\$500.00) dollars, as determined by the Tribal Court after notice and an opportunity to be heard.

Section 4.5. *Compliance Required*. All possession, distribution, sale and consumption of liquor on tribal lands shall be in compliance with this Ordinance including all applicable provisions of California State law.

#### Article V—Licensing

Section 5.1. *Licensing Procedures*. In order to control the proliferation of establishments on tribal lands that sell or provide liquor by the bottle or by the drink, all persons or entities that desire to import or sell liquor, whether wholesale or retail, within the exterior boundaries of the Rancheria, must apply to the Tribal Council for a Liquor Operator's license.

Section 5.2. *Required Licenses*. A person shall not:

(a) Import liquor onto tribal lands unless such person becomes a licensed importer;

(b) Engage in business as a wholesale dealer of liquor, beer or wine unless such person becomes a licensed wholesaler;

(c) Engage in the retail sale of liquor, beer or wine unless such person becomes a licensed retailer.

Section 5.3. *State Licensing.* No person shall be allowed or permitted to distribute, sell or provide liquor on the Rancheria, consistent with this Ordinance, unless such person is also licensed by the State of California to sell or provide such liquor. If any such license from the State is revoked or suspended, any applicable tribal license shall automatically be revoked or suspended.

Section 5.4. *Application.* Any person or entity applying for a license to sell or provide liquor on the Rancheria shall complete and submit an application, described below, provided for this purpose by the Tribal Council and pay such application fee as may be set by the Tribal Council.

Section 5.5. *Application Fee.* Any person or entity applying for a license under this Ordinance shall pay to the Tribal Council an application fee in the amount of One Thousand Four Hundred (\$1,400.00) Dollars, which shall be deposited into the Tribal Treasury.

Section 5.6. *Issuance of License.* The Tribal Council may issue a license if it reasonably believes that such issuance is in the best interest of the Tribe and its members. Licensure is a privilege, not a right, and the decision to issue any license rests in the sole discretion of the Tribal Council, further, the Tribal Council acknowledges that there is no tribal legislation prohibiting the sale of tobacco and/or alcoholic beverages previously in force, and no such legislation will be enacted during the term of the Management Agreement.

Section 5.7. *Period of License.* Each license may be issued for a period not to exceed seven (7) years from the date of issuance.

Section 5.8. *Renewal of License.* A licensee may renew a license if such licensee has complied in full with this Ordinance and has maintained its licensure with the State of California, as required; however, the Tribal Council may refuse to renew a license if it finds that doing so would not be in the best interests of the health and safety of the members of the Tribe and the other residents of the Rancheria.

Section 5.9. *Suspension or Revocation of License; Notice, Hearing, Right to Legal Counsel; Writing.* The Tribal Council may suspend or revoke a license issued under this Ordinance for violation of any of the provisions of the laws of the Tribe including this Ordinance, or any conditions of the Liquor Operator's license, or for false information provided by the licensee on the application for an Operator's license, or on the application for renewal of an Operator's License, provided that the Tribal Council provide notice and a hearing, at which the licensee shall be given an opportunity to have legal counsel, to submit testimony and evidence, to cross examine witnesses, and respond to any charges against it and, to demonstrate why the license should not be suspended or revoked. Any decision to revoke a license under this Ordinance shall be in writing, and shall state with specificity the reasons and evidence justifying revocation. In the event any Liquor Operator's license is suspended or revoked pursuant to this Ordinance, all application fees paid by the licensee shall be forfeited and shall not be refunded to such licensee.

Section 5.10. *Application for License.* An application for any of the licenses described in Section 5.2, above, must be made to the Tribal Council. Each application must:

(a) Be made on such form as the Tribal Council prescribes;

(b) Include the name, address and social security or tax identification number of the applicant. If the applicant is: (i) A partnership, the application must include the names and addresses of all partners; (ii) a corporation, association, limited liability company or other organization, the application must include the names and addresses of the president, vice president, secretary and managing officer or officers;

(c) Include the following information regarding all persons listed in (b) above: (i) Birth certificate or other suitable proof of age; (ii) background information of the applicant's business history relating to the import, distribution or sale of liquor, including a complete and full disclosure of all previously held licenses obtained from any jurisdiction relating to transactions of liquor; (iii) a copy of all current liquor licenses issued to applicant by the State of California; (iv) if the applicant is a corporation, limited liability company or other business association, proof of good standing from the jurisdiction in which the entity is organized; (v) a description of the type of liquor business proposed to be conducted on the Rancheria, including the scope of such business and liquor activity, the location and such other information as the Tribal Council may request; and (vi) satisfactory proof that the applicant's past and present record as a business person and citizen demonstrates that the applicant is of good moral character and reputation, is financially responsible, and that the applicant has not been convicted of a felony;

(d) Specify the location of the premises for which the license is sought, which shall be the location of a tribally-owned enterprise within the Rancheria, and

(e) Be accompanied by the annual license fee required for the particular license for which application is made.

Section 5.11. *Contents of License.* Every license issued under this Ordinance shall set forth:

(a) Name of the person to whom it is issued;

(b) Location of the premises and the name of the tribal enterprise where liquor is proposed to be imported, delivered, and/or sold;

(c) Type of license issued; and

(d) Statement that license is nontransferable, except that upon prior written notice and in accordance with regulations of the Tribal Council, the location of the premises for which it was issued may be changed.

Section 5.12. *Notice of Application for License.* Upon submission of a sworn application to the Tribal Council for a Liquor Operator's license, or renewal of an existing license, the Tribal Council Secretary shall review the application for completeness and determine whether on the face of the application, the applicant and the premises meet the criteria provided by this Ordinance, the tribal Gaming Code and tribal law. Upon

determination that a submitted application or renewal for a Liquor Operator's license is complete, and the application or renewal meets the criteria listed herein, the Tribal Council Secretary shall post a notice at the tribal office for "Application for Liquor Operator License," which shall include the applicant's name, and the license applied for by the applicant, and the date set for the issuance of such license.

Section 5.13. *Hearing on Application for License.* All applications for a Liquor Operator's license, or for renewal of an existing license, shall be considered by the Tribal Council in open public session at which the applicant, the Tribal Council and any person supporting or protesting the application, shall have the right to attend, to express their views and to offer sworn oral testimony and documentary evidence relevant to the application. At the discretion of the Tribal Council, the hearing may be scheduled for a Tribal Council or General Council meeting with thirty (30) days notice. The applicant and any protestant, at each one's own expense, shall have the right to be represented by an attorney. The proceedings shall be recorded by tape using recording devices that permit the tape itself to be reproduced in kind under the control of the Tribal Council by commonly available equipment. A copy of the tape may be obtained at the request and the expense of any participant in the proceedings. A typed transcript of the proceedings shall be transcribed by the Tribal Council Secretary, or its designated agent, and a copy of such typed transcript may be purchased by any participant to the proceedings, at such requesting participant's own expense. The original taped recording shall be the property of the Tribal Council and shall be the official record of such proceedings.

Section 5.14. *Denial of Application for License.* If an application for a new or renewal of a Liquor Operator's license has been denied by the Tribal Council, or if the application for a new or renewal for a license is withdrawn by the applicant after a hearing has been held in which testimony is received regarding any reason for denying the application, the withdrawal shall have the same effect as an order denying the application; the Tribal Council may not consider an application for a license to sell alcoholic beverages, or issue a license to sell alcoholic beverages, for the same, or substantially the same, premises for two (2) years. The two (2) year prohibition commences with the date of the Tribal Council's final decision, or if the decision is judicially reviewed, on the date the judicial decision is final, or if the application is withdrawn, on the date of withdrawal.

Section 5.15. *Right of Review.* Any person aggrieved by a final decision of the Tribal Council shall have the right of judicial review of the Tribal Council's decision by the Tribal Court, if and when established; provided that a party to a validly approved contract with the Tribe may seek such remedies identified in such contract in addition to or in lieu of the review provided in this Ordinance. In the event no Tribal Court has been established, such person may request further consideration and review of

the decision by the Tribal Council, which shall be granted if the aggrieved person presents new or additional material information to the Tribal Council along with a written request for further consideration that outlines the issues to be reconsidered.

Section 5.16. *Special Events License.* In accordance with procedures and regulations to be issued by the Tribal Council, a person may apply for a special license of limited duration known as a Special Events License. The Tribal Council, in its discretion, may grant to any licensed Liquor Operator, or to any tribal, or community organization conducting a tribal or organizational activity or to any association or corporation conducting a picnic, convention, fair, civic or community enterprise, or sporting event, a special license to sell beer and/or wine to the patrons of such event or activity to be consumed on the licensed premises and within the licensed enclosure or special event site. The special license to sell beer and/or wine shall expire within twelve (12) hours after the designated completion of the activity or special event, unless extended in writing by the Tribal Council.

#### Article VI—Taxes

Section 6.1. *Sales Tax.* The Tribal Council shall have the authority to impose a tax on all wholesale and retail liquor sales that take place on tribal lands. Such tax may be implemented by a duly enacted resolution of the Tribal Council, as supplemented by regulations adopted pursuant to this Ordinance. Such tax shall not be imposed on a party to a contract validly executed by the Tribe, if it is inconsistent with such validly executed contract. Subject to the foregoing limitation, any tax imposed by authority of this Section shall apply to all retail and wholesale sales of liquor on tribal lands.

Section 6.2. *Payment of Taxes to the Tribe.* All taxes imposed pursuant to this Article VI shall be paid to the General Treasury of the Tribe and be subject to the distribution by the Tribal Council in accordance with its usual appropriation procedures for essential governmental functions and social services, including administration of this Ordinance.

#### Article VII—Rules, Regulations and Enforcement

Section 7.1. *Evidence.* In any proceeding under this Ordinance, proof of any unlawful possession, distribution or sale of liquor shall be prima facie evidence of a violation of this Ordinance.

Section 7.2. *Civil Violations.* Any person who shall import, sell or offer for sale or distribute or transport in any manner any liquor in violation of this Ordinance, or who shall have liquor in his/her possession for distribution or resale without a license, shall be guilty of a violation of this Ordinance subjecting him/her to civil damages assessed by the Tribal Council in accordance with its duly adopted regulations. Nothing in this Ordinance shall apply to the possession or transportation of any quantity of liquor by members of the Tribe or other persons located outside tribal lands for their personal or other noncommercial use, and the possession, transportation, sale, consumption or other disposition of liquor outside the Rancheria shall be governed solely by the laws of the State of California.

Section 7.3. *Illegal Purchases.* Any person within the boundaries of the Rancheria who, in a public place, sells or buys liquor from any person other than a licensed Liquor Operator at a tribal enterprise or special event shall be guilty of a violation of this Ordinance.

Section 7.4. *Providing Liquor to Underage Person.* No person under the age of twenty-one (21) years shall serve, consume, acquire or have in his/her possession any alcoholic beverages. Any person violating this section shall be guilty of a violation of this Ordinance for each and every drink so consumed.

Section 7.5. *Selling Liquor to Underage Person.* Any person who, in a public place, sells, distributes or provides any liquor to any person under the age of twenty-one (21) years shall be guilty of a violation of this Ordinance for each separate sale or drink provided.

Section 7.6. *Civil Penalty.* Any person guilty of a violation of this Ordinance shall be liable to pay the Tribe the amount of two hundred fifty dollars (\$250.00) per violation as civil damages to defray the Tribe's cost of enforcement of this Ordinance. The payment of such damages in each case shall be determined by the Tribal Council based upon a preponderance of the evidence available to the Tribal Council after the person alleged to have violated this Ordinance has been given notice, hearing and an opportunity to respond to such allegations.

Section 7.7. *Identification Requirement.* Whenever it reasonably appears to a licensed purveyor of liquor that a person seeking to purchase liquor is under the age of twenty-seven (27) years, the licensed purveyor of liquor may require the prospective purchaser to present any one of the following officially-issued cards of identification which shows the prospective purchaser's age, signature, and photograph:

- (a) Drivers license of any state or identification card issued by any state Department of Motor Vehicles (DMV);
- (b) United States Uniformed Services identification documents; or
- (c) Passport

Section 7.8. *Refusal to Sell or Distribute Liquor.* Whenever a licensed purveyor of liquor requires the presentation of an officially-issued card of identification under Section 7.7, above, and the prospective purchaser fails to present such identification, the licensed purveyor shall refuse to sell or distribute any liquor to such prospective purchaser.

#### Article VIII—Abatement

Section 8.1. *Public Nuisance Established.* Any public place where liquor is sold, manufactured, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this Ordinance, and all property kept in and used in maintaining such place, is hereby declared to be a public nuisance.

Section 8.2. *Abatement of Nuisance.* The Tribal Chairperson, upon authorization by a majority of the Tribal Council acting at a duly-called meeting at which a quorum is present, shall institute and maintain an action in a court of competent jurisdiction in the name of the Tribe, to abate and

perpetually enjoin any nuisance declared under this Ordinance. Upon establishment that probable cause exists to find that a nuisance exists, restraining orders, temporary injunctions and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the court may also order the room, structure or place closed for a period of one (1) year or until the owner, lessee, tenant or occupant thereof shall give bond of sufficient sum of not less than five thousand dollars (\$5,000.00) payable to the Tribe and conditioned that liquor will not thereafter be manufactured, kept, sold, bartered, exchanged, given away, furnished or otherwise disposed of thereof in violation of the provisions of this Ordinance or of any other applicable tribal law, and that he/she will pay all fines, costs and damages assessed against him/her for any violation of this Ordinance. If any conditions of the bond should be violated, the whole amount may be recovered for the use of the Tribe.

Section 8.3. *Evidence.* In all cases where any person has been found responsible for a violation of this Ordinance relating to manufacture, importation, transportation, possession, distribution and sale of liquor, an action may be brought to abate as a public nuisance the use of any real estate or other property involved in the violation of this Ordinance, and proof of violation of this Ordinance shall be prima facie evidence that the room, house, building, vehicle, structure, or place against which such action is brought, is a public nuisance.

#### Article IX—Use of Proceeds

Section 9.1. *Application of Proceeds.* The gross proceeds collected by the Tribal Council from all licensing activity pursuant to this Ordinance and from fines imposed as a result of violations of this Ordinance, shall be applied as follows:

(a) First, for the payment of all necessary personnel, administrative costs, and legal fees incurred in the enforcement of this Ordinance; and

(b) Second, the remainder shall be turned over to the General Fund of the Tribe and expended by the Tribal Council for governmental services and programs on tribal lands.

#### Article X—Miscellaneous Provisions

Section 10.1. *Severability and Savings Clause.* If any provision or application of this Ordinance is determined by judicial review to be invalid, such provision shall be deemed ineffective and void, but shall not render ineffectual the remaining portions of this Ordinance, which shall remain in full force and effect.

Section 10.2. *Effective Date.* This Ordinance shall be effective as of the date on which the Secretary of the Interior certifies this Ordinance and publishes the same in the **Federal Register**.

Section 10.3. *Repeal of Prior Acts.* Any and all prior resolutions, laws, regulations or ordinances of the Tribe pertaining to the subject matter set forth in this Ordinance are hereby rescinded and repealed in their entirety.

Section 10.4. *Conformance with State Law.* All interpretations, acts and transactions

under this Ordinance shall be in conformity with the Compact and the laws of the State of California, within the intent of 18 U.S.C. 1154, 1161.

#### Article XI—Amendments

Section 11.1 This Ordinance may be amended only pursuant to a duly enacted Resolution of the Tribal Council, with certification by the Secretary of the Interior, or his designee, and publication in the **Federal Register**, if required.

[FR Doc. 02-23856 Filed 9-19-02; 8:45 am]

BILLING CODE 4310-4J-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[MT-921-02-1320-EL-P; NDM 91647]

#### Request for Public Comment on Environmental Analysis, Fair Market Value and Maximum Economic Recovery; Coal Lease Application NDM 91647, The Falkirk Mining Company

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

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management announces the availability of the Environmental Assessment (EA) for the Falkirk Mining Company's Federal Coal Lease Application NDM 91647 and requests public comment on the associated Finding of No Significant Impact (FONSI), Fair Market Value (FMV), and Maximum Economic Recovery (MER) of the coal resources subject to the lease application.

The land included in Coal Lease Application NDM 91647 is located in McLean County, North Dakota, and is described as follows:

T. 146N., R. 82W., 5th P. M.

Sec. 34: NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

40.00 acres.

The EA addresses the cultural, socioeconomic, environmental and cumulative impacts that would likely result from leasing these coal lands. Two alternatives are addressed in the EA:

*Alternative 1:* (Proposed Action) Would involve leasing the tract, as applied for. This tract contains an estimated 300,000 tons of recoverable coal reserves.

*Alternative 2:* (No Action) Reject or deny the coal lease application. The Federal coal reserves would be bypassed.

The public is invited to submit written comments on the FONSI associated with this proposed action as well as the FMV and MER of the proposed lease tract.

Notice is also given that a public hearing will be held on Monday, September 23, 2002, at 10 a.m. on the FONSI, FMV, and MER for the proposed lease sale at the BLM North Dakota Field Office, 2933 Third Avenue West, Dickinson, North Dakota.

**DATES:** Written comments must be received on or before 4:30 p.m., Friday, October 4, 2002, at the Bureau of Land Management North Dakota Field Office, 2933 Third Avenue West, Dickinson, North Dakota.

**ADDRESSES:** Comments or questions may be directed to Doug Burger, Field Manager, North Dakota Field Office, Bureau of Land Management, 2933 Third Avenue West, Dickinson, North Dakota 58601-2619 (701-227-9148). Copies of the EA are available at the above address. For more complete data on this tract, please contact Coal Coordinator, Rebecca Good (406-896-5080), Bureau of Land Management, Montana State Office, 5001 Southgate Drive, Billings, Montana 59107-6800.

**SUPPLEMENTARY INFORMATION:** In accordance with the Federal Coal Management regulations 43 CFR parts 3422 and 3425, not less than 30 days prior to publication of a notice of sale, the Secretary shall solicit public comments on the proposed sale, FMV, and MER on the proposed lease tract. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on FMV and MER, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59107-6800, during regular business hours (9 a.m. to 4 p.m.) Monday through Friday.

Written comments should be sent to the Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107-6800, and should include, but not necessarily be limited to, the following:

1. The quality and quantity of the coal resources;
2. The mining method or methods which would achieve MER of the coal including specification of the seams to be mined, timing and rate of production, restriction to mining, and inclusion of the tract in an existing mining operation;
3. The FMV appraisal including but not limited to the evaluation of the tract

as an incremental unit of an existing mine, selling price of the coal, mining and reclamation costs, net present value discount factors, depreciation and other tax accounting factors, value of the surface estate, and any comparable sales data of similar coal lands.

The value given above may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

**FOR FURTHER INFORMATION CONTACT:** Doug Burger, District Manager, North Dakota Field Office, 2933 Third Avenue West, Dickinson, North Dakota 58601-2619, telephone 701-227-9148.

Dated: July 24, 2002.

**Randy D. Heuscher,**

*Chief, Branch of Solid Minerals.*

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BILLING CODE 4310-SS-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CO-500-0777-PB-252Z]

#### Front Range Resource Advisory Council (Colorado) Meeting Cancellation

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

**ACTION:** Notice of meeting cancellation.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the Front Range Resource Advisory Council (Colorado) meeting scheduled for September 18, 2002 at the Holy Cross Abbey Community Center, 2951 E. Highway 50, Canon City, Colorado has been cancelled. Notice of the meeting appeared in the **Federal Register**: May 20, 2002.

**DATES:** The meeting was scheduled for September 18, 2002 from 9:15 a.m. to 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Ken Smith at (719) 269-8500, Bureau of Land Management (BLM), Front Range Center Office, 3170 East Main Street, Canon City, Colorado 81212.

**SUPPLEMENTARY INFORMATION:** There are no plans to reschedule the meeting.

Dated: September 13, 2002.

**John L. Carochi,**

*Acting Front Range Center Manager.*

[FR Doc. 02-23879 Filed 9-19-02; 8:45 am]

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