



PROCEDURAL HANDBOOK

Leasing and Permitting Chapter 1 – General Information

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1.0 INTRODUCTION

People have been engaged in leasing activities for hundreds of years. As stated in the BIA’s Branch of Real Estate Services Leasing Manual published in 1984:

“Some form of land leasing has been practiced virtually from the beginnings of civilization. Although leasing Indian lands involves several unique features, the basic essentials have come down from the legal systems developed by the European colonizers of the North American continent, most notably the English. The authorities for Indian leases have evolved with the development of Federal Indian policy and the pressures generated by Indian and non-Indian interests. Leasing has become a major activity in the performance of Federal trust responsibilities by the Bureau of Indian Affairs.”

While there is no statutory requirement that Indian lands held in trust by the United States Government be leased, the Secretary of the Interior has a fiduciary obligation to “protect and preserve Indian trust assets from loss, damage, unlawful alienation, waste, and depletion,” and to make decisions concerning trust lands that are in the best interest of the Indian landowner. The Secretary of the Interior’s trust principles are documented in the *Departmental Manual*, 303 DM2. One of the most effective ways to meet these obligations is to put the land under lease.

This handbook is designed to provide general requirements for processing agricultural, residential and business leases and permits on Indian trust lands under the jurisdiction of the Bureau of Indian Affairs (BIA). (See [Glossary of Terms](#) and [List of Acronyms](#)) The handbook has been prepared for BIA realty staff, P.L. 93-638 contracts and self-governance tribes in order to provide reference materials that align with the Department of the Interior’s Fiduciary Trust Model. ([See Exhibit 1 - Fiduciary Trust Model](#))

1.1 BIA Mission Statement, Vision, And Guiding Principles

The United States of America holds approximately 52 million acres of land in trust or restricted status for Indian Tribes and individual Indians. This figure is from the Annual Acreage & Leasing Report, acreage is subject to change. The Bureau of Indian Affairs administers monitors and approves leases on these lands. (See [Exhibit 2 - The Bureau of Indian Affairs Organization](#).)

1.2 Mission Statement

The Bureau of Indian Affairs’ mission is to fulfill its trust responsibilities and promote self-determination on behalf of Tribal Governments, American Indians and Alaska Natives.

1.3 Vision

The Bureau of Indian Affairs is a challenging and dynamic place to work. We provide high quality services in a timely and professional manner. We have the organizational flexibility to meet the changing needs of our customers. Our employees are committed, knowledgeable and empowered. Our policies are clear, consistent, and supported throughout the organization. We manage for excellence, fostering cooperation, and coordination in consultation with Indian Tribes while supporting self-determination and tribal sovereignty.

1.4 Guiding Principles

The Bureau of Indian Affairs takes pride in our ability to successfully manage a complex, multi-faceted organization.

- Integrity, accountability and excellence are never compromised.
- We treat everyone with respect, trust and dignity.
- Customers are the focus of everything we do.
- We set priorities and execute plans consistent with our strategic objectives.
- Employees are our most important asset.
- We achieve results through teamwork.
- Continuous improvement in the quality of services is vital to our success.
- Our priority is to support and enhance tribal government.
- We encourage innovation and risk taking and share responsibility for the results.

2.0 GENERAL AUTHORITIES AND POLICIES

2.1 Federal Law

General statutory authority for leasing Indian lands did not come into being until after the passage of the General Allotment Act of 1887. All leases must be approved by the Secretary of the Interior or his/her delegated authority, pursuant to 25 U.S.C. 177, except for leases granted pursuant to Section 17 of the Indian Reorganization Act (IRA) or a Special Act of Congress. The principal Acts of Congress governing surface leases are as follows:

25 U.S.C. 14b - Disposition of funds received from public for goods and services provided by Bureau of Indian Affairs (May 24, 1990)

The Secretary of the Interior is authorized to retain collections from the public in payment for goods and services provided by the Bureau of Indian Affairs. Such collections shall be credited to the appropriation account against which obligations were incurred in providing such goods and services.

25 U.S.C. 380 (54 Stat. 745) July 8, 1940 - Lease of inherited allotments by superintendent

Restricted allotments of deceased Indians may be leased, except for oil and gas mining purposes, by the superintendents of the reservation within which lands are located (1) when the heirs or devisees of such decedents have not been determined and (2) when the heirs and devisees of the decedents have been determined, and such lands are not in use by any of the heirs and the heirs have not been able during a three-months' period to agree upon a lease by reason of the number of the heirs, their absence from the reservation, or for other cause, under such rules and regulations as the Secretary of the Interior may prescribe. The proceeds derived from such leases shall be credited to the estates or other accounts of the individuals entitled thereto in accordance with their respective interests.

25 U.S.C. 393 (41 Stat. 1232) March 3, 1921 - Leases of restricted allotments

The restricted allotment of any Indian may be leased for farming and grazing purposes by the allottee or his heirs, subject only to the approval of the superintendent or other officer in charge of the reservation where the land is located, under such rules and regulations as the Secretary of

the Interior may prescribe: *provided*, that this provision shall not apply to the Five Civilized Tribes.

25 U.S.C. 394 (39 Stat. 128) May 18, 1916 - Leases of arid allotted lands

Whenever it shall appear to the satisfaction of the Secretary of the Interior that the allotted lands of any Indian are arid but susceptible of irrigation and that the allottee, by reason of old age or other disability, cannot personally occupy or improve his allotment or any portion thereof, such lands, or such portion thereof, may be leased for a period not exceeding ten years, under such terms, rules, and regulations as may be prescribed by the Secretary of the Interior.

25 U.S.C. 395 (31 Stat. 229) May 31, 1900 - Leases of allotted lands where allottee is incapacitated

Whenever it shall be made to appear to the Secretary of the Interior that, by reason of age, disability, or inability, any allottee of Indian lands cannot personally, and with benefit to himself, occupy or improve his allotment or any part thereof, the same may be leased upon such terms, regulations, and conditions as shall be prescribed by the Secretary for a term not exceeding five years, for farming purposes only.

25 U.S.C. 397 (26 Stat. 795) February 28, 1891 - Leases of lands for grazing

Where lands are occupied by Indians who have bought and paid for the same, and which are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the council speaking for such Indians, for a period not to exceed five years for grazing upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior. *See Strawberry Valley Cattle Co. v. Chipman*, (Utah 1896), 45 P.348, 13 Utah 454, wherein it states: "The words "bought and paid for" are not a limitation to only such as have been actually paid for in cash, or to those which have been patented, and the title to which has been actually parted with by the United States; but they include all lands which have been purchased by the Indians, either by the payment of money, or by exchange, or by the surrender of possession of other property."

25 U.S.C. 402 (28 Stat. 305) August 15, 1894 - Leases of surplus lands

The surplus lands of any tribe may be leased for farming purposes by the council of such tribe under the same rules and regulations and for the same term of years as was on August 15, 1894, allowed in the case of leases for grazing purposes.

25 U.S.C. 402a (44 Stat. 894) July 3, 1926 - Lease of unallotted irrigable lands for farming purposes

The unallotted irrigable lands on any Indian reservation may be leased for farming purposes for not to exceed ten years with the consent of the tribal council, business committee, or other authorized body representative of the Indians, under such rules and regulations as the Secretary of the Interior may prescribe.

25 U.S.C. 403 (26 Stat. 856) June 25, 1910 - Leases of lands held in trust

Any Indian allotment held under a trust patent may be leased by the allottee for a period not to exceed five years, subject to and in conformity with such rules and regulations as the Secretary

of the Interior may prescribe, and the proceeds of any such lease shall be paid to the allottee or his heirs, or expended for his or their benefit, at the discretion of the Secretary of the Interior.

25 U.S.C. 413 (47 Stat. 1417) March 1, 1933 - Fees to cover cost of work performed for Indians

The Secretary of the Interior is hereby authorized, in his discretion, and under such rules and regulations as he may prescribe, to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or for individual Indians, to be paid by vendees, lessees, or assignees, or deducted from the proceeds of sale, leases, or other sources of revenue: *provided*, that the amounts so collected shall be covered into the Treasury as miscellaneous receipts, except when the expenses of the work are paid from Indian tribal funds, in which event they shall be credited to such funds.

25 U.S.C. 415 (69 Stat. 539) August 9, 1955 and as amended - Leases of restricted lands for public, religious, educational, recreational, residential, business and other purposes

Any restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, for grazing purposes, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a primary term not to exceed twenty-five years and a single renewal period of up to 25 years, except leases of land located in specifically delineated reservations.

25 U.S.C. 415b (69 Stat. 540) August 9, 1955 - Advance payment of rent or other consideration

No rent or other consideration for the use of land leased under sections 415 to 415d of this title shall be paid or collected more than one year in advance, unless so provided in the lease.

25 U.S.C. 477 (48 Stat. 988) June 18, 1934 - Incorporation of Indian tribes; charter, ratification by election

The Secretary of the Interior may, upon petition by any tribe, issue a charter of incorporation to such tribe: *provided* that such charter shall not become operative until ratified by the governing body of such tribe. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefore interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding twenty-five years any trust or restricted lands included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

25 U.S.C. 2218 November 7, 2000, as amended by the American Indian Probate Reform Act of 2004 - Approval of leases, rights-of-way, and sales of natural resources on allotted lands

Except in Alaska, notwithstanding any other provision of law, the Secretary may approve any lease or agreement that affects individually owned allotted land or any other land held in trust or restricted status by the Secretary on behalf of an Indian, if the owners of not less than the applicable percentage of the undivided interest in the allotted land that is covered by the lease or agreement consent in writing to the lease or agreement; and the Secretary determined that approving the lease or agreement is in the best interest of the owners of the undivided interest in the allotted land. The applicable percentage referred to shall be determined as follows:

- (a) If there are 5 or fewer owners of the undivided interest in the allotted land, the applicable percentage shall be 90 percent.
- (b) If there are more than 5 such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent.
- (c) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent.
- (d) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.

25 U.S.C. 2220, January 20, 2004 - Owner-managed interests

Notwithstanding any provision of Federal law requiring the Secretary to approve individual Indian leases of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary, and the Secretary has approved such applications, such owners may, without further approval by the Secretary, enter into a lease of the parcel for agricultural purposes for a term not to exceed 10 years. No such lease shall be effective until it has been executed by the owners of all undivided trust or restricted interests in the parcel. (See [Exhibit 3 - Section 221 of AIPRA.](#))

The Indian Agriculture Resources Management Act of 1993 (AIARMA) (25 U.S.C. 3712, et.seq, as amended)

Section 3715 of the act delineates specific authorities and rights of the Indian landowner(s), extends lease tenure authority, and under specific circumstances, allows for an exemption from certain tribal rules. Under negotiated leases, the majority (50% or greater) consent of the landowners binds the minority as long as the minority interest owners receive not less than fair market value. The act requires plans that may include, but are not limited to, depiction of fencing requirements, areas to be excluded from permitting, trespass prevention/resolution procedures, livestock control responsibilities, and resource development objectives and responsibilities. Section 102 of AIARMA describes Indian participation in land management activities and establishes the relationship of tribes and the Secretary of the Interior with regard to Indian land management activities and tribal laws and ordinances. The section also includes laws that regulate environment and historic or cultural preservation and land use or other activities under tribal jurisdiction. The section states that the Secretary will assist in the enforcement of such laws, furnish notice of laws affecting lands that will have an affect on agricultural lands, and ensure that Federal officials appear in tribal forums at the request of a tribe.

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4211)

Notwithstanding any other provision of law, any trust or restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, subject to the approval of the affected Indian tribe and the Secretary of the Interior, for housing development and residential purposes (this includes residential leases granted to non-tribal, privately-financed developers). Each lease shall be for a term not exceeding 50 years.

2.2 Indian Affairs Manuals (IAMs) and Bureau Of Indian Affairs Manuals (BIAMs)

Reserved

This handbook includes and replaces the procedures detailed in 54 BIAM.

2.3 Federal Regulations

Leases are processed under the regulations found at 25 CFR 162, Subpart A - General Provisions; Subpart B - Agricultural Leases; Subpart E - Special Requirements for Certain Reservations 162.500 Crow Reservation and Subpart F - Non-Agricultural Leases. (See [Exhibit 4 - 25 CFR Part 162.](#)) Subpart C - Residential Leases and Subpart D - Business Leases were reserved when this regulation was published January 22, 2001. Pending future publication of the subparts that have been reserved, Subpart F will govern the processing of residential and business leases. 25 CFR Part 162 does not address mineral leases, prospecting permits, mineral development agreements, grazing permits, timber contracts, management contracts, joint venture agreements, or encumbrances of tribal lands that are covered under 25 U.S.C. § 81.

Additionally, the regulation does not apply to leases of water rights associated with Indian lands, except the use of water rights that are incorporated in the lease of the land itself; the payment of fees and drainage and irrigation charges pursuant to 25 CFR 162.611; easements or rights-of-way; trader's licenses; or land assignments and similar authorizations of temporary use by tribal members, in accordance with tribal laws or custom.

In accordance with 25 CFR 162.208 and 162.605, leases of individually owned land or tribal land may be granted by the following:

- Adults, other than those *non compos mentis*;
- Adults, other than those *non compos mentis*, on behalf of their minor children, and on behalf of minor children to whom they stand *in loco parentis* when such children do not have a legal representative;
- Guardians, conservators or other fiduciaries appointed by a state or a tribal court [court of competent jurisdiction] operating under an approved constitution or law and order code, of a minor or persons who are *non compos mentis* or are otherwise under legal disability ;
or
- Delegated tribal officials. (Note: Section 17 tribal corporation leases do not require Secretarial approval, but can only be leased up to 25 years.)

2.4 Delegation Of Authority

The authority of the Secretary of the Interior has been delegated to the Director, Bureau of Indian Affairs, by the Assistant Secretary - Indian Affairs in 230 DM 1 and redelegated to the Regional Directors. This delegation can be reviewed in the Indian Affairs Manual Release #00-03, Part 3, Chapter 4. Unless otherwise limited, the Regional Directors may redelegate this authority at their

discretion.

Current Delegation of Authority can be found on-line at the Bureau of Indian Affairs Homepage <http://www.doi.otr.realestate.gov>

2.5 Landowner Consent Requirements

Subsections 219(a) – (b) of the Indian Land Consolidation Act (ILCA) provide the Secretary with general authority to approve leases and permits, except in Alaska, which have been negotiated or agreed to by the owners of a sliding percentage of the trust/restricted ownership of a given tract, as long as the transaction is expressly found to be in the owners' best interest. On October 27, 2004, the President signed the American Indian Probate Reform Act of 2004, which amends the minimum consent requirements for these transactions to (1) 90%, if there are five or fewer owners; (2) 80%, if there are between six and ten owners; (3) 60%, if there are between eleven and nineteen owners; and (4) a simple majority, if there are twenty or more owners. For purposes of determining what percentage is needed to satisfy these consent requirements, Section 219(b)(2) indicates that the number of owners will be that which is reflected in the BIA's records as of the date on which all of the necessary transaction documents have been received. Finally, it should be noted that Section 219(d) allows the BIA to approve a lease transaction without tribal consent (where the requisite minimum consent has been obtained, and the tribe owns a minority interest). However, even if the ILCA authority is utilized, obtaining tribal consent is encouraged whenever the tribe owns a fractional interest.

Nothing in section 2218 of ILCA, as amended by AIPRA, "shall be construed to amend or modify the provisions of Public Law 105-188 (25 U.S.C. 396 note), the American Indian Agricultural Resources Management Act (25 U.S.C. 3701 et seq.), Title II of the Indian Land Consolidation Act amendments of 2000, or any other act that provides specific standards for the percentage of ownership interest that must approve a lease or agreement on a specified reservation." For example, AIARMA only requires majority consent, and ILCA as amended by AIPRA does not modify that requirement.

Pursuant to 25 CFR 162.209 and 25 CFR 162.601, the Secretary can consent on behalf of the following:

- Persons who are *non compos mentis*;
- Orphaned minors;
- The undetermined heirs of a decedent's estate;
- The heirs or devisees to individually owned land who have not been able to agree upon a lease during the three-month period immediately following the date on which a lease may be entered into; provided that the land is not in use by any of the heirs or devisees;
- Indians who have given the Secretary written authority to execute leases on their behalf; and
- Adult Indians whose whereabouts is unknown when necessary to protect and preserve such property.

The BIA may assist in procuring the consent requirements; however, in order to expedite this process, it is recommended that the landowner or potential lessee procure the necessary documentation. The BIA can provide a list of the landowners' names and addresses to the lessee if requested in writing.

2.6 National Environmental Policy Act Of 1969 (NEPA) (42 U.S.C. 4321, Et Seq.)

NEPA requires that Federal agencies (including the BIA) evaluate, in a public process, the impacts on the quality of the human environment of proposed Federal actions. Approval or disapproval of a lease is but one of the BIA actions subject to NEPA review, which is a separate but concurrent, process from the lease review. There are three levels of NEPA review with increasing levels of complexity. Which level is appropriate for a particular proposed action depends upon the action and the potential impacts. Contact the appropriate Regional Environmental Scientist for further guidance on the NEPA process and other environmental requirements.

2.7 FOIA And Privacy Act

In general, lease information is public information. However, prior to release of any financial or private information related to a lease, adhere to the FOIA exemptions and redacting of unreleasable personal information. For detailed information and assistance, contact FOIA/Privacy Act personnel.

The Freedom of Information Act (FOIA) of 1966 as amended can be found at 5 U.S.C. 552. The Act was substantially amended in 1974, 1986 and again in 1996 with the introduction of E-FOIA, P.L. 104-231. The Act provides for the right to access agency records and is enforceable in court. All records must be disclosed unless they are exempt and harm could occur because of a disclosure.

E-FOIA takes the 1966 Act into the information age, broadens access to include electronic information and provides certain requirements for electronic record searches, disclosure format and computer redactions. The Departmental Manual (DM) as authorized in 383 DM 1, 4, 5, 6, 7, and 8 provide policy and general guidance for administering and implementing FOIA within the Department of the Interior.

The Privacy Act of 1974 can be found at 5 U.S.C. § 522a. The Privacy Act limits the collection of personal information and protects this information for uses other than what it was collected for, and guarantees the government maintains no secret record systems. The DM as authorized in 383 DM 1-12 provides policies and procedures for implementing the Privacy Act of 1974.

2.8 Tribal Laws, Constitution, and Ordinances

Under 25 U.S.C. § 3712(b) and 25 CFR § 162.202(a), the Secretary is required to comply with tribal laws regulating activities on Indian agricultural land. In other instances, unless prohibited by Federal law, the BIA will recognize applicable tribal laws regulating activities on land under agricultural, residential and business lease, including tribal laws relating to land use, such as environmental protection, building codes, housing codes, zoning, and historic and cultural preservation. Lessees are obliged to comply with applicable tribal laws affecting their lease.

2.9 Direct Payment Policy

Reserved

2.10 Leasing Of Undivided Fee Interests Policy

Reserved

2.11 Advance Payment Policy

Pursuant to 25 USC § 415 (b) “No rent or other consideration for the use of land leased under sections 396 and 415 to 415d of this title shall be paid or collected more than one year in advance, unless so provided in the lease.”

3.0 OTHER CONSIDERATIONS

3.1 Essential Parts of a Lease

Names of the parties - Includes the name of the person(s) or entity owning the land and the name of the person or other entity that is being granted the right to use the land. The Secretary of the Interior may act for and on behalf of Indian beneficiaries. The party granting the lease is called the lessor and the party receiving the lease is called the lessee.

Possession and/or rights conveyed - Describes the possessory right of the lessee and the rights conveyed. In most cases, the following words are used: “... the lessor hereby leases to the lessee ...”

Land description – In many cases, the leased premise is described by not only the legal description, but by the tract or allotment number as well. Real estate can be described in several ways; (e.g. by aliquot parts of the section, range and township; by metes and bounds; by reference to plat, lot number or map; or by giving the street address in the case of urban property). (See [Exhibit 5 - How to Read a Land Description](#).)

The terms and duration - This clause provides the effective date, the length of the term and the ending date. For leases on trust land, the duration of the lease is regulated by various statues and regulations and may vary from location to location and for the type of lease involved.

The rental rates, payment, compensation - Specifies the amount of rent to be paid to the lessor and the times and method of payment.

Provisions and stipulations - Consists of a series of provisions that cover such things as maintenance and improvement of the premises; limitations on use; default actions; late payment penalties, insurance and bonding requirements, conservation stipulations, when assignment and modification can be performed with or without landowner consent as agreed upon, and other such provisions required by statute or regulation. Provisions are discussed further in Section 4.0 and the Exhibits Section of this handbook.

Signature, acknowledgements, and the date of the agreement - Most Indian trust leases must be authorized by the Secretary of the Interior or by his/her duly authorized representative. The lessee must sign the lease or the signature must be by a person authorized to act on behalf of another or an entity. The person may be required to furnish documents that verify the authority of the party to act, such as a resolution of the Board of Directors empowering the agent to sign on behalf of a corporation or a power of attorney prepared in accordance with state law.

3.2 Lease File Maintenance

All documents pertaining to a lease issued on behalf of Indian landowners is an official record of the United States Government and must be maintained as such.

3.3 Indian Landowner(s)'s Personal Use of His/Her Trust Land

The Indian landowner has the right to use their trust or restricted property. Pursuant to 25 CFR 162.104 (b), a landowner of a fractional interest must obtain permission or a lease to continue use of the land from the remaining fractional trust and restricted landowners. An owner who is using or has obtained a lease on the tract in which he owns an undivided interest must pay his co-owners at least fair market rental unless those co-owners have waived their right to receive rental income.

3.4 Bonding

For agricultural leases, performance bonds, certificates of deposit or irrevocable letters of credit, are required unless the majority of the landowners request a waiver of the requirement. For long term non-agricultural leases, the Secretary may not require a rental bond if the annual rental is paid in advance.

3.5 Trespass

Trespass occurs any time there is the unauthorized occupancy or encroachment, use of, or action on Indian lands. Trespass may deprive the landowner of revenue or cause resource damages. An administrative resolution to trespass or unauthorized use should always be the first choice of resolution. If that does not remedy the situation, assessment of damage for compensation and litigation reports should be formalized and processed through the Solicitor's Office and the Department of Justice. Specific resolution procedures may vary depending on the type of trespass; (e.g., livestock grazing on unleased land, unauthorized business or residential occupancy, or selling without a vendor permit).

It is BIA's policy to:

- investigate all accidental, incidental, and/or willful trespass on Indian agricultural land;
- respond to all alleged trespass in a prompt, efficient manner;
- determine whether trespass occurred and, as applicable, whether trespass likely is civil or criminal; and, if criminal trespass is suspected, notify the appropriate law enforcement agency;
- assess trespass penalties for the value of products used or removed, cost of damage to the Indian land, and enforcement costs incurred as a consequence of the trespass; and
- ensure that damage to Indian lands resulting from trespass is rehabilitated and stabilized at the expense of the trespasser.

Trespass may be accidental or willful and the definition covers a wide range of unauthorized activities and may include livestock trespass, the construction of roads, pipelines and/or other facilities, as well as any other land modifications or use undertaken without a valid permit granted by BIA or other appropriate entity.

Tribes may adopt BIA trespass regulations which affords tribes concurrent jurisdiction to enforce

the regulations. On the other hand, tribes can develop their own trespass regulations under a tribal ordinance and enforce them on tribal lands. At the tribe's request, BIA will assist in enforcing tribal laws pertaining to Indian lands and may defer to tribal prosecution of Indian land trespass cases. Additional trespass guidance and policies can be reviewed in the Agricultural/Range Handbook.

3.6 Administrative Appeals

A lessee or permittee has the right to appeal all administrative decisions under 25 CFR Part 2 or 43 CFR 4.332(b). If an appeal is filed, there is a stay on all actions, unless the deciding official makes his/her decision effective immediately. There must be no further action taken on the lease until all administrative remedies have been exhausted and a final decision regarding the appeal has been rendered.

The Regional Director and the Interior Board of Indian Appeals (IBIA) must have an administrative record in order to decide an appeal. An administrative record must be assembled and submitted to the IBIA within 20 days after receipt of a notice of appeal. The administrative record generally consists of all the documents and records that were considered by the deciding official before he/she made the decision that is being appealed. The detailed requirements for standard appeal language and the administrative record for appeals before the IBIA can be reviewed in *BIA Administrative Appeals and Decision Writing, Interior Board of Indian Appeals, February 1989*. These requirements, while specifically addressed to appeals before IBIA, should also serve as guidelines for preparing administrative records for appeals within BIA.