



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Post Office Box E
Fort Yates, North Dakota 58538

IN REPLY REFER TO
Real Estate Services

FEB 15 2017

CERTIFIED MAIL - RETURNED RECEIPT REQUESTED - 7016 2710 0000 7349 9590

LaDonna Brave Bull Allard
PO Box 670
Fort Yates, North Dakota 58538-0670

Dear Ms. Brave Bull Allard:

It has come to our attention that you are allowing individuals to move onto trust property without proper authorization or without a valid lease. This notice is being issued to you regarding a possible trespass violation for utilizing trust property without approved authorization or a valid lease contract. The leasing regulations for trust property are found at 25 CFR Part 162.

The legal description for Standing Rock Allotment 2275 -B, the trust property where the trespass is occurring, is described as follows:

The N $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, T. 134 N., R. 79 W., Fifth Principal Meridian, Sioux County, North Dakota, containing 317.50 acres, more or less.

According to 25 USC § 2218(b)(1)(B), the consent requirement for granting a non-agricultural lease in a parcel containing six to ten owners is 80 percent. Your undivided ownership interest in this tract is 1/15 or 6.67 percent. In contrast, the Standing Rock Sioux Tribe's share in this tract is 2/3 or 66.67 percent. Acting alone, you lack authority to grant a permit or lease on this property. As a majority owner, the Standing Rock Sioux Tribe must consent to any permit or lease which authorizes possession or occupancy of this land. At present, we have received no authorization from the Standing Rock Sioux Tribe that would allow individuals to take possession or occupy the property. In fact, the entire parcel is under an existing farm pasture lease minus existing homesites and easements that were previously approved by the BIA.

An Indian owning a beneficial interest in trust property may still be held liable for trespass on that property. "It is well-established that one who commands, instigates, encourages, advises, countenances, cooperates in, aids, or abets the commission of a trespass is liable as a co-trespasser with the person actually committing [sic] the trespass, and is liable as a principal to the same extent and in the same manner as if he had performed the wrongful act himself. See 75 Am. Jur. 2d *Trespass* § 66 (1991); 87 C.J.S. *Trespass* § 31b & c (1954); see also *Bloedel Timberlands Development, Inc. v. Timber Industries, Inc.*, 626 P.2d 30, 34 (Wash. App. 1981) ("one who

authorizes or directs a trespass is jointly liable with the actual trespassers")." *Lummi Nation v. Northwest Regional Director*, 44 IBIA 47, 63 (2007).

Because we can find no authority for your continued possession, you are being issued this notice for trespass, in accordance with 25 CFR § 166.800: "Under this part, trespass is any unauthorized occupancy, use of, or action on Indian agricultural lands. These provisions also apply to Indian agricultural land managed under an agricultural lease or permit under part 162 of this title."

According to § 166.806, we can take one or more of the following actions, as appropriate:

- (a) Seize, impound, sell or dispose of unauthorized livestock or other property involved in the trespass. We may keep such property we seize for use as evidence.
- (b) Assess penalties, damages, and costs, under § 166.812 of this subpart.

Under § 162.812, you may be held responsible for the following penalties, damages, and costs:

- (a) Collection of the value of the products illegally used or removed plus a penalty of double their values;
- (b) Costs associated with any damage to Indian agricultural land and/or property;
- (c) The costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;
- (d) Expenses incurred in gathering, impounding, caring for, and disposal of livestock in cases which necessitate impoundment under § 166.807 of this subpart; and
- (e) All other penalties authorized by law.

In accordance with BIA's regulations and this letter, you have 10 days to show cause why we should not find you in trespass. You may yet avoid a finding of trespass if you or your agents immediately vacate the property, remove all personal property, and return the property to its pre-trespass condition. You must notify us that the violation has been cured.

Alternatively, you may contact us in writing to explain why the trespass notice is in error. You may contact us by telephone but your explanation must be in writing.

This trespass notice will remain in effect for the conduct identified herein for a period of one year from the date of receipt of this notice. This trespass notice is not subject to appeal pursuant to 25 CFR Part 2. In the event we issue to you a finding of a trespass, we will notify you of your right to appeal. In the event we determine that we issued the trespass notice in error, we will withdraw this notice.