

**NOTICE OF TRESPASS TO THOSE PERSONS NOW UNLAWFULLY OCCUPYING OR IN POSSESSION OF THE WALKING THUNDER ALLOTMENT WITHOUT A VALID LEASE OR PERMIT**

It has come to the attention of the Standing Rock Agency, Bureau of Indian Affairs (BIA), that one or more Indian landowners have been allowing individuals, none of whom own an interest in the property, to move onto trust property without proper authorization or without a valid lease pursuant to the regulations found at Title 25 of the Code of Federal Regulations (CFR) Part 162. This notice is being issued by BIA regarding a possible trespass violation for utilizing trust property without approved authorization or a valid lease contract.

The property where the trespass is occurring is identified as Standing Rock Allotment 2290-A also referred to as the Walking Thunder Allotment, and is described as follows:

The E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 22, T. 134 N., R. 79 W., Fifth Principal Meridian, Sioux County, North Dakota, containing 20.00 acres, more or less.

According to Title 25 of the United States Code Section 2218(b)(1)(B), the consent requirement for granting a non-agricultural lease in a parcel containing 20 or more owners is over 50 percent. The Standing Rock Sioux Tribe's share in this tract is 40.69 percent. 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, the Standing Rock Agency has received no authorization from the Standing Rock Sioux Tribe that would allow individuals to take possession or occupy this property.

As a point of information, 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). No Indian owner of Allotment 2290-A may authorize a third party, who does not own an interest in the property, permission to take possession or occupy without consent from at least 80 percent ownership interest in the property and, if applicable, approval by BIA.

Because BIA can find no authority for continued possession by any party currently residing on Allotment 2290-A, individuals currently in possession or occupying the subject property are being issued this notice of trespass. In accordance with 25 CFR § 166.800, "[u]nder 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, BIA 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, parties may be responsible for the following penalties, damages, and costs:

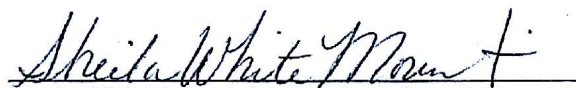
- (a) Collection of the value of the products illegally used or removed plus a penalty of double their values;
- (b) Costs associated with any damage to Indian agricultural land and/or property;
- (c) The costs associated with enforcement of the regulations, including field examination and survey, damage 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, individuals unlawfully occupying the subject property have 10 days to show cause why BIA should not find them in trespass. Any party may avoid a finding of trespass if he/she immediately vacates the property, removes all personal property, and returns the property to its pre-trespass condition. Individuals must notify BIA that the violation has been cured.

Alternatively, any individual may contact the BIA in writing to explain why this trespass notice is in error.

This trespass notice will remain in effect for the conduct identified herein for a period of one year from the date of publication of this notice. This trespass notice is not subject to appeal under 25 CFR Part 2. In the event the BIA subsequently issues a finding of a trespass following this notice, we will notify parties of their right to appeal. In the event BIA determines that the trespass notice was issued in error, it will withdraw this notice.

If you have any questions or require additional information, please contact the Realty Office at (701) 854-3430, or stop in at the office located in Fort Yates, North Dakota. Written correspondence may be addressed to the attention of the Superintendent at Post Office Box E, Fort Yates, North Dakota 58538.

  
Sheila White Mountain, BIA Superintendent





United States Department of the Interior  
OFFICE OF HEARINGS AND APPEALS

Probate Hearings Division  
2718 Montana Avenue, Suite 300  
Billings, Montana 59101-2346  
Telephone: (406) 657-6960  
Fax: (406) 657-6966

IN THE MATTER OF THE ESTATE OF

THELMA GRETA SHELL TRACK  
AKA: THELMA GRETA BLACK HOOP

Deceased Standing Rock Sioux Indian  
Indian Enrollment No.: 302U006536

PROBATE: P 0000 96028 IP

NOTICE

TO ALL PERSONS HAVING OR CLAIMING AN INTEREST  
IN THE SUBJECT MATTER OF THIS PROCEEDING

NOTICE IS GIVEN that a decision was entered in the above estate, a copy of which is attached hereto.

This decision becomes final thirty (30) days from the date of mailing unless, within such period, a written notice of appeal shall have been filed, in accordance with the provisions of 43 C.F.R. § 4.321. The original written notice of appeal, signed by the appellant, the appellant's attorney, or the appellant's representative as provided in 43 C.F.R. § 1.3, shall be filed with the:

Board of Indian Appeals  
Office of Hearings and Appeals  
U.S. Department of the Interior  
801 N. Quincy Street, Suite 300  
Arlington, Virginia 22203

A statement of the errors of fact and law, upon which the appeal is based, shall be included in either the notice of appeal or in any brief filed. The notice of appeal shall include the names and addresses of parties served. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction.

The appellant shall personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy shall be served upon the administrative law judge whose decision is appealed, as well as all interested parties. The notice of appeal filed with the Board shall include a certification that service was made as required by this section.


Particular notice is given to parties in interest named on the attached sheet.

FEB 10 2017

I hereby certify that on \_\_\_\_\_  
I mailed a copy of this instrument to all persons  
named on the attached sheet.

BY:

MLN

  
R. S. Chester  
Administrative Law Judge

SUPERINTENDENT STANDING ROCK  
AGENCY  
P.O. BOX E  
FORT YATES, ND 58538

SUPERINTENDENT CROW CREEK  
AGENCY  
P.O. BOX 139  
FORT THOMPSON, SD 57339

ELMER LLOYD SHELL TRACK JR  
PO BOX 296  
CANNON BALL, ND 58528

E/O PATRICIA JEAN SHELL TRACK  
C/O SUPT STANDING ROCK AGENCY  
P.O. BOX E  
FORT YATES, ND 58538

YVONNE MARIE SHELL TRACK  
3555 BIA RD. #7  
SELFIDGE, ND 58568

ADELLA LYNETTE WISE SPIRIT  
P.O. BOX 211  
CANNON BALL, ND 58528

ARVELLA LYNN FOURTH  
BOX 211  
CANNON BALL, ND 58528

GEORGETTA RUTH FLYING HORSE  
BOX 235  
CANNON BALL, ND 58528

ADA CHERESE FOURTH  
P.O. BOX 1301  
CANNON BALL, ND 58528

STANDING ROCK SIOUX TRIBE  
P.O. BOX D  
FORT YATES, ND 58538

CROW CREEK SIOUX TRIBE  
P. O. BOX 50  
FORT THOMPSON, SD 57339

SHORT TERM LOAN STANDING ROCK  
SIOUX TRIBE  
P.O. BOX D  
FORT YATES, ND 58538

LTRO GREAT PLAINS REGIONAL  
115 4TH AVENUE SOUTHEAST  
SUITE 400  
ABERDEEN, SD 57401



United States Department of the Interior  
OFFICE OF HEARINGS AND APPEALS

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2718 Montana Avenue, Suite 300  
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IN THE MATTER OF THE ESTATE OF

**THELMA GRETA SHELL TRACK**  
AKA: THELMA GRETA BLACK HOOP

Deceased Standing Rock Sioux Indian  
Indian Enrollment No.: 302U006536

: PROBATE: P 0000 96028 IP

:  
:  
:  
:  
: **MODIFICATION ORDER TO**  
: **INCLUDE OMITTED**  
: **PROPERTY**

**PROCEDURAL HISTORY**

1. A Decision was entered in the above-entitled estate on February 21, 2013.
2. On December 5, 2016, the Superintendent, Standing Rock Agency, Bureau of Indian Affairs, submitted a request to modify the inventory of this estate to include additional interests in Decedent's trust or restricted property located on the Standing Rock Indian Reservation in the State of North Dakota. Decedent's additional property interests are described in the attached inventory.
3. Ordinarily, before finalizing such a request, the undersigned would issue an order allowing interested parties, in this case, Decedent's heirs, an opportunity to respond to the proposed modification of the Decedent's inventory. Specifically, the undersigned would allow time for interested parties to disclaim these additional property interests in favor of someone else. However, in this particular case, the interests to be added by means of this Modification Order to Include Omitted Property (Order) do not represent interests in property on another Indian reservation. Accordingly, there is no reason to issue an order which would further delay this probate.
4. The purpose of this Order is to **ADD** Decedent's additional interest[s] in the property located on the Standing Rock Indian Reservation in the State of North Dakota, as listed in the attached inventory, and to **DISTRIBUTE** said property pursuant to the Decision, dated February 21, 2013.

**ORDER**

**NOW, THEREFORE**, by virtue of the authority vested in the Secretary of the Interior by the Act of June 25, 1910, 36 Stat. 855, 25 U.S.C. § 372 (1982), as amended by the Act of February



14, 1913, 37 Stat. 678, 25 U.S.C. § 373 (1982), and other applicable statutes and pursuant to 43 C.F.R. § 30.126, **IT IS HEREBY ORDERED:**


1. The inventory of this estate and the Decision, dated February 21, 2013, are modified to include the additional trust or restricted property interests listed on the attached inventory.

2. The property shall be distributed equally to Decedent's seven children as more fully described in the Decision.

3. A copy of this Order shall be mailed to all interested parties.

4. This Order becomes final thirty (30) days from the date of mailing, unless a notice of appeal is filed within that period, as set forth in the attached notice.

Done at Billings, MT      FEB 10 2017

  
R. S. Chester  
Administrative Law Judge

DATE: 10/31/2016  
TIME: 11:55:27 CST

BUREAU OF INDIAN AFFAIRS  
INVENTORY OF DECEDENTS REPORT  
INTERESTS LESS THAN 5%  
PART I

PAGE: 1 of 2  
REQUESTOR: DEAGLEEL

----- OWNER ----- BIRTHDATE: 01/16/1933 DEATHDATE: 05/28/2011

TRB CL NUMBER  
302 U 006536

LAST NAME	FIRST NAME	MIDDLE NAME
SHELL TRACK ESTATE	THELMA	B
TRACK	THELMA B SHELL	
SHELL TRACT	THELMA B	
SHELL TRACK	THELMA B	
SHELL TRACK	THELMA	
SHELL TRACK	THELMA	
BLACKHOOP	THELMA	
BLACK HOOP	THELMA BLACKHOOP	
SHELL TRACK	THELMA	
BLACKHOOP/SHELL TRACK	THELMA BLACKHOOP	
SHELLTRACK	THELMA	
SHELL TRACK	THELMA	
SHELL TRACK ESTATE OF	THELMA	

GRETA  
GRETA

----- DATE OF LAST -----  
EXAM DATE VERIFY DATE  
03/31/2016

----- TRACT ID ----- TITLE  
LAC PFX NUMBER SFX PLANT  
302 2180 -D ABERDEEN, SD

LAND AREA  
STANDING ROCK

RESOURCES  
Both (Mineral and Surface)

RATTLING TAIL

SEC TOWNSHIP RANGE COUNTY  
36 134.00N 080.00W SIOUX

ST MERIDIAN  
ND Fifth Principal

LEGAL DESCRIPTION

	SECTION ACRES	CUMULATIVE ACRES
E E E NW	20.000	20.000
E W E NW	10.000	30.000
N N S NE	10.000	40.000
N NE	80.000	120.000
N S NE	40.000	160.000

DESCRIPTION:

NSNE, NNSSNE, EEENW, EWEENW

TOTAL SECTION ACRES: 160.000 160.000

- OWNER -	DOCUMENT	NAME IN WHICH FIRST ACQUIRED	FRACTION ACQUIRED	TOTAL ESTIMATE VALUE
TYP OT INTCLS TYP NUMBER				
I T A 12 JO GP3020013		SHELL TRACK ESTATE	1	
		THELMA B	27	

Acquired From 302U006537  
BLACKHOOP, ARNOLD

\$ \_\_\_\_\_

INDIVIDUAL SHARE  
MONETARY VALUE

AGGREGATE SHARE  
CONVERTED TO LCD

AGGREGATE  
DECIMAL

1  
27 .0370370370

\$ \_\_\_\_\_

PROBATE & ESTATE SERVICES

NOV 28 2016

STANDING ROCK AGENCY  
FORTYATES, ND

DATE: 10/31/2016  
TIME: 11:55:28 CST

BUREAU OF INDIAN AFFAIRS  
INVENTORY OF DECEDENTS REPORT  
INTERESTS LESS THAN 5%  
PART I

PAGE: 2 of 2  
REQUESTOR: DEAGLEEL

TOTAL MONETARY VALUE: SURFACE \$ \_\_\_\_\_ MINERAL \$ \_\_\_\_\_ BOTH \$ \_\_\_\_\_

OVERALL TOTAL MONETARY VALUE: \$ \_\_\_\_\_

CERTIFICATION OF VALUE

THE VALUE STATED IN THIS INVENTORY IS AN ESTIMATE AND DOES NOT NECESSARILY REPRESENT THE PRESENT FAIR MARKET VALUE OF THE PROPERTY. FURTHER INVESTIGATION OF THE VALUE MUST BE MADE BEFORE ENTERING INTO ANY NEGOTIATIONS OR CONTRACTS INVOLVING THESE PROPERTIES.

\_\_\_\_\_  
CERTIFYING OFFICER'S LOCATION

\_\_\_\_\_  
DATE

\_\_\_\_\_  
CERTIFYING OFFICER

LEASES (ADDITIONAL LEASES ON SEPARATE PAGE):

LEASE NUMBER	EXPIRATION DATE	ANNUAL SHARE(\$)
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----
-----	-----	-----

CERTIFICATION OF TITLE

IT IS HEREBY CERTIFIED THAT THE FOREGOING IS AN ACCURATE INVENTORY ACCORDING TO THE RECORDS OF THE LAND TITLES AND RECORDS OFFICES OF THE BUREAU OF INDIAN AFFAIRS OF THE TRUST OR RESTRICTED INTERESTS OWNED BY THE ABOVE-NAMED DECEDENT AT THE TIME OF HER DATE OF DEATH, MAY 28, 2011.

10/31/2016  
DATE

[Signature]  
LAND TITLES AND RECORDS OFFICE

\* \* \* \* \* END OF REPORT \* \* \* \* \*