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or exceed the rates paid by the preceding permittee(s). Tribal members will pay grazing rental rates established by the tribe on tribal lands.

§ 166.219 How do I acquire a permit through negotiation?

(a) Permits may be negotiated and granted by the Indian landowners with the permittee of their choice. The BIA may negotiate and grant permits on behalf of Indian landowners pursuant to § 166.205 of this part.

(b) Upon the conclusion of negotiations with the Indian landowners or their representatives, and the satisfaction of any applicable conditions, you may submit an executed permit and any required supporting documents to us for appropriate action. Where a permit is in a form that has previously been accepted or approved by us, and all of the documents needed to support the findings required by this part have been received, we will decide whether to approve the permit within 30 days of the date of our receipt of the permit and supporting documents. If we decide to approve or disapprove a permit, we will notify the parties immediately and advise them of their right to appeal the decision under part 2 of this title.

(c) In negotiating a permit, the Indian landowners may choose to include their land in the permit in exchange for their receipt of a share of the revenues or profits generated by the permit. Under such an arrangement, the permit may be granted to a joint venture or other legal entity owned, in part, by the Indian landowners.

(d) Receipt of permit payments based upon income received from the land will not, of itself, make the Indian landowner a partner, joint venturer, or associate of the permittees.

(e) We will assist prospective permittees in contacting the Indian landowners or their representatives, for the purpose of negotiating a permit.

§ 166.220 What are the basic steps for acquiring a permit through negotiation?

The basic steps for acquiring a permit by negotiation are as follows:

(a) The BIA or the Indian landowner will:

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(1) Receive a request to permit from an Indian landowner or the potential permittee;

(2) Prepare the permit documents; and

(3) Grant the permit.

(b) A potential permittee will complete the requirements for securing a permit, (e.g., bond, insurance, payment of administrative fee, etc.);

(c) We will:

(1) Review the permit for proper documentation and compliance with all applicable laws and regulations;

(2) Approve the permit after our review;

(3) Send the approved permit to the permittee and, upon request, to the Indian landowner; and

(4) Record and maintain the approved permit.

§ 166.221 How do I acquire an advertised permit through competitive bidding?

(a) As part of the negotiation of a permit, Indian landowners may advertise their Indian land to identify potential permittees with whom to negotiate.

(b) When the BIA grants and approves a permit on behalf of an individual Indian landowner using an advertisement for bids, we will:

(1) Prepare and distribute an advertisement of lands available for permit that identifies the terms and conditions of the permit sale, including, for agricultural permits, any preference rights;

(2) Solicit sealed bids and conduct the public permit sale;

(3) Determine and accept the highest or best responsible bidder(s), which may require further competitive bidding after the bid opening; and

(4) Prepare permits for successful bidders.

(c) After completion of the steps in paragraph (b) of this section, the successful bidder must complete and submit the permit and satisfy all applicable requirements, (e.g., bond, insurance, payment of administrative fee, etc.).

(d) After review of the permit documentation for proper completion and compliance with all applicable laws and regulations, within 30 days we will:

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(1) Grant and approve the permit on behalf of Indian landowners where we are authorized to do so by law;

(2) Distribute the approved permit to the permittee(s) and, upon request, to the Indian landowner(s); and

(3) Record and maintain the approved permit.

§ 166.222 Are there standard permit forms?

Yes. Standard permit forms, including bid forms, permit forms, and permit modification forms are available at our agency offices.

PERMIT (LEASEHOLD) MORTGAGE

§ 166.223 Can I use a permit as collateral for a loan?

We may approve a permit containing a provision that authorizes the permittee to encumber the permit interest, known as a leasehold mortgage, for the development and improvement of the permitted Indian land. We must approve the leasehold mortgage that encumbers the permit interest before it can be effective. We will record the approved leasehold mortgage instrument.

§ 166.224 What factors does the BIA consider when reviewing a leasehold mortgage?

(a) We will approve the leasehold mortgage if:

(1) All consents required in the permit have been obtained from the Indian landowners and any surety or guarantor;

(2) The mortgage covers only the permit interest, and no unrelated collateral belonging to the permittee;

(3) The financing being obtained will be used only in connection with the development or use of the permitted premises, and the mortgage does not secure any unrelated obligations owed by the permittee to the mortgagee; and

(4) We find no compelling reason to withhold our approval, in order to protect the best interests of the Indian landowner.

(b) In making the finding required by paragraph (a)(4) of this section, we will consider whether:

(1) The ability to perform the permit obligations would be adversely affected by the cumulative mortgage obligations;

(2) Any negotiated permit provisions as to the allocation or control of insurance or condemnation proceeds would be modified;

(3) The remedies available to us or the Indian landowners would be limited (beyond the additional notice and cure rights to be afforded to the mortgagee), if the permittee defaults on the permit;

(4) Any rights of the Indian landowners would be subordinated or adversely affected in the event of a foreclosure, assignment in lieu of foreclosure, or issuance of a "new permit" to the mortgagee.

(c) We will notify the Indian landowners of our approval of the leasehold mortgage.

§ 166.225 May a permittee voluntarily assign a leasehold interest under an approved encumbrance?

With our approval, under an approved encumbrance, a permittee voluntarily may assign the leasehold interest to someone other than the holder of a leasehold mortgage if the assignee agrees in writing to be bound by the terms of the permit. A permit may provide the Indian landowners with a right of first refusal on the conveyance of the leasehold interest.

§ 166.226 May the holder of a leasehold mortgage assign the leasehold interest after a sale or foreclosure of an approved encumbrance?

Yes. The holder of a leasehold mortgage may assign a leasehold interest obtained by a sale or foreclosure of an approved encumbrance without our approval if the assignee agrees in writing to be bound by the terms of the permit. A permit may provide the Indian landowners with a right of first refusal on the conveyance of the permit interest (leasehold).

MODIFYING A PERMIT

§ 166.227 How can Indian land be removed from an existing permit?

(a) We will remove Indian land from the permit if:

(1) The trust status of the Indian land terminates;

(2) The Indian landowners request removal of their interest, with the written approval of the majority interest of the fractionated tract to be removed,