

## Bureau of Indian Affairs, Interior

## § 161.717

owner, condemned and destroyed, or otherwise disposed of.

(c) BIA will give the purchaser a bill of sale or other written receipt evidencing the sale.

### PENALTIES, DAMAGES, AND COSTS

#### **§ 161.712 What are the penalties, damages, and costs payable by trespassers?**

Trespassers on Navajo Partitioned Lands must pay the following penalties 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 Navajo Partitioned Lands and/or property;

(c) The costs associated with enforcement of the provisions, 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 § 161.707; and

(e) All other penalties authorized by law.

#### **§ 161.713 How will BIA determine the amount of damages to Navajo Partitioned Lands?**

(a) BIA will determine the damages by considering the costs of rehabilitation and re-vegetation, loss of future revenue, loss of profits, loss of productivity, loss of market value, damage to other resources, and other factors.

(b) BIA will determine the value of forage or crops consumed or destroyed based upon the average rate received per month for comparable property or grazing privileges, or the estimated commercial value or replacement costs of the products or property.

(c) BIA will determine the value of the products or property illegally used or removed based upon a valuation of similar products or property.

#### **§ 161.714 How will BIA determine the costs associated with enforcement of the trespass?**

Costs of enforcement may include detection and all actions taken by us through prosecution and collection of

damages. This includes field examination and survey, damage appraisal, investigation assistance and report preparation, witness expenses, demand letters, court costs, attorney fees, and other costs.

#### **§ 161.715 What will BIA do if a trespasser fails to pay penalties, damages and costs?**

This section applies if a trespasser fails to pay the assessed penalties, damages, and costs as directed. Unless otherwise provided by applicable Navajo Nation law, BIA will:

(a) Refuse to issue the permittee a permit for any use of Navajo Partitioned Lands; and

(b) Forward the case for appropriate legal action.

#### **§ 161.716 How are the proceeds from trespass distributed?**

Unless otherwise provided by Navajo Nation law:

(a) BIA will treat any amounts recovered under § 161.712 as proceeds from the sale of agricultural property from the Navajo Partitioned Lands upon which the trespass occurred.

(b) Proceeds recovered under § 161.712 may be distributed to:

(1) Repair damages of the Navajo Partitioned Lands and property; or

(2) Reimburse the affected parties, including the permittee for loss due to the trespass, as negotiated and provided in the permit.

(c) Reimburse for costs associated with the enforcement.

(d) If any money is left over after the distribution of the proceeds described in paragraph (b) of this section, BIA will return it to the trespasser or, where the owner of the impounded property cannot be identified within 180 days, the net proceeds of the sale will be deposited into the appropriate Navajo Nation account or transferred to the Navajo Nation under applicable tribal law.

#### **§ 161.717 What happens if BIA does not collect enough money to satisfy the penalty?**

BIA will send written notice to the trespasser demanding immediate settlement and advising the trespasser that unless settlement is received within 5 business days from the date of