

## Bureau of Indian Affairs, Interior

## § 166.818

owner, condemned and destroyed, or otherwise disposed of.

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

### PENALTIES, DAMAGES, AND COSTS

#### **§ 166.812 What are the penalties, damages, and costs payable by trespassers on Indian agricultural land?**

Trespassers on Indian agricultural land 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 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.

#### **§ 166.813 How will the BIA determine the value of forage or crops consumed or destroyed?**

We 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 such products or property.

#### **§ 166.814 How will the BIA determine the value of the products or property illegally used or removed?**

We will determine the value of the products or property illegally used or removed based upon a valuation of similar products or property.

#### **§ 166.815 How will the BIA determine the amount of damages to Indian agricultural land?**

We will determine the damages by considering the costs of rehabilitation and revegetation, loss of future rev-

enue, loss of profits, loss of productivity, loss of market value, damage to other resources, and other factors.

#### **§ 166.816 How will the 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.

#### **§ 166.817 What happens if I do not pay the assessed penalties, damages and costs?**

Unless otherwise provided by applicable tribal law:

(a) We will refuse to issue you a permit for use, development, or occupancy of Indian agricultural lands; and

(b) We will forward your case for appropriate legal action.

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

Unless otherwise provided by tribal law:

(a) We will treat any amounts recovered under § 166.812 of this subpart as proceeds from the sale of agricultural property from the Indian agricultural land upon which the trespass occurred.

(b) Proceeds recovered under § 166.812 of this subpart may be distributed to:

(1) Repair damages of the Indian agricultural land and property;

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

(3) Reimburse for costs associated with the enforcement of this subpart.

(c) If any money is left over after the distribution of the proceeds described in paragraph (b) of this section, we will return it to the trespasser or, where we cannot identify the owner of the impounded property within 180 days, we will deposit the net proceeds of the sale into the accounts of the landowners where the trespass occurred.