

INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** This chapter documents Indian Affairs (IA) policy regarding agricultural trespass on Indian lands.
- 1.2 Scope.** This policy applies to all Tribally and individually held trust and restricted Indian agricultural lands under Bureau of Indian Affairs (BIA) jurisdiction, and to all IA programs and staff charged with the management of these lands. This policy may also apply to entities carrying out activities on behalf of IA under contracts or other agreements if expressly agreed to in the contracts or agreements, or if the requirement to abide by such policy is otherwise required by law. These entities may include contractors or Tribes operating through contracts issued pursuant to Public Law (P.L.) 93-638. Compacted Tribes may not be required to abide by the policies contained in this chapter (depending on individual compact language), but are encouraged to use IA policy as guidance.
- 1.3 Policy.** It is IA's policy to monitor Indian agricultural lands for unauthorized use and occupancy, and to promptly investigate reported and confirmed trespass violations, prioritizing those cases in which the alleged trespasser had actual or constructive knowledge that their conduct was prohibited.
- 1.4 Authority.**
- A. Statutes and Regulations.**
- 1) P.L. 93-638, Indian Self-Determination and Educational Assistance Act (ISDEAA) of 1975, as amended
 - 2) 25 U.S.C. § 3713, Indian agricultural lands trespass
 - 3) 25 CFR 166, Subpart I – Trespass
- B. Guidance.**
- 1) Secretary's Order (SO) 3385, Enforcement Priorities
- 1.5 Responsibilities.**
- A. Director, BIA** is responsible for:
- 1) ensuring compliance and capacity to comply with statutes, regulations, IA policy, and Department of the Interior (DOI) policy applicable to the detection, investigation, and remedy/resolution of trespass on Indian agricultural lands; and
 - 2) determining the role, if any, of BIA Office of Justice Services (OJS) staff in agricultural trespass detection, investigation, and resolution.

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- B. Deputy Bureau Director (DBD), Field Operations, BIA** is responsible for assigning priority to trespass detection and response, and supporting budget and staffing to complete these activities.
- C. DBD, Office of Trust Services (OTS), BIA** is responsible for:
- 1) coordinating agricultural trespass detection and investigation activities among and between OTS programs;
 - 2) supporting budget and staffing; and
 - 3) monitoring policies, standards, and procedures for Indian agricultural land trespass detection, investigation, and remedy/resolution.
- D. Regional Director (RD)** is responsible for:
- 1) determining budget and staffing needs, justifying budget levels, and supporting requests through the budgeting process;
 - 2) providing regional guidance for agricultural trespass detection, investigation, and remedy/resolution; and
 - 3) approving or remanding agreements between BIA agencies and Tribes concerning agricultural trespass responsibilities and processes.
- E. BIA Agency Superintendent** is responsible for:
- 1) negotiating agreements with Tribal governments to agree to and assign duties and responsibilities for the detection, investigation, and remedy/resolution of agricultural trespass to either BIA or the Tribe, as appropriate;
 - 2) organizing, training, and assigning BIA agency staff and resources to complete agricultural land trespass detection, investigation, and remedy; and
 - 3) coordinating these activities with other BIA agency responsibilities.

1.6 Definitions.

- A. Agriculture/agricultural** herein refers to cultivated crops, marketable or traditionally used materials, and livestock production for commercial as well as subsistence use.

Approval

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Darryl LaCounte
Director, Bureau of Indian Affairs

Date