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REPLY TO THE FOLLOWING:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

Santher
Spencer
Halle
Merritt
Flaney
Warrington



Regulations
Governing the Leasing of
Indian Allotted and Tribal Lands for
Farming, Grazing and Business Purposes.

Submitted with recommendation for approval:

Charles F. Smith

Commissioner.

Approved: MAY -9 1929

Raymond Hill
Secretary.

NA RG48 SOI, E749A, CCF 1907-36, 5-6 General, Box 1438, Leases-Regulations, part 3.

CARBON FOR SECRETARY'S OFFICE

*John
F. ...
Hatch*

FARMING, GRAZING, AND BUSINESS LEASES.

1. Except as elsewhere herein otherwise indicated, the following table shows the periods for which Indian land may be leased for farming, grazing, and business purposes; the form to be used in each case; and the number of copies to be made. The periods have been fixed by law and must not be exceeded in any case. They represent the maximum, and leases should be made for the shortest term for which advantageous contracts can be secured with responsible parties.

Went

FARMING						
Kind	Dry.			Irrigable.		
	Years	Form	Copies	Years	Form	Copies
Allotted	5	5-180	5	10	5-180	5
Tribal	5	5-371A	5	10	5-317A	5

GRAZING			BUSINESS			
Kind.	Years	Form	Copies	Years	Form	Copies
Allotted	5	5-180	5	10	xxx	5
Tribal	5	5-175A	5	xx	xxx	5

INITIALING COPY-FOR FILE *Went*

2. Under the Act of March 3, 1921(41 Stat. L., 1232), restricted Indian land may be leased for farming and grazing purposes by the allottee or his heirs, subject only to the approval of the local Superintendent. It is, therefore, not necessary that such leases be transmitted to this Office. Leases of incompetent adults and of minors(except as provided in Par. 4), should be negotiated by the Superintendent and the rental paid to him for deposit to the allottee's credit as individual Indian moneys.

3. Leases on the lands of adults should be made only with the consent of the allottee, who should sign the contract as lessor except as to Indians who are mentally incompetent or clearly incapable of acting for their best interests and who without good cause, refuse either to use the land themselves or lease it. In such cases the Superintendent should obtain the allottee's reasons, in writing if possible, and report all the facts to the Commissioner of Indian Affairs with the recommendation that he be authorized to sign for the allottees.

4. Any adult allottees deemed by the Superintendent to have the requisite knowledge, experience, and business capacity may be permitted to negotiate their own leases and collect the rentals therefor. All such leases, however, must be approved by the Superintendent. This privilege should be granted in writing and with some liberality; and be subject to revocation at any time the allottee

proves himself unworthy of it by wasteful expenditure of the money. Indians of this class may also be permitted to negotiate leases on the land of their minor children, but not to collect the rentals, which shall be paid to the Superintendent for deposit to the minors' credit as individual Indian money. Such leases must be approved by the Superintendent.

5. Allotted Indian lands should be leased only to the manifest advantage of the owners; and every able-bodied restricted Indian should be required to withhold from lease a sufficient acreage to serve as a "homeplace" and farm unless the allottee resides elsewhere and is otherwise gainfully employed.

6. Leases on the land of incompetent non-resident allottees, Indians non compos mentis, and all minors shall be executed by the Superintendent as ex officio guardian. Superintendents should not execute leases for competent non-resident allottees without their written authority. Leases on the land of minors shall not extend beyond the age of majority under the State law without special authority therefor from the Commissioner of Indian Affairs. Any Indian who supports his dependent minor children and desires to use their land for farming or grazing purposes may do so without charge and use or dispose of the resultant crops and livestock without accounting therefor.

7. Leases of inherited lands where the heirs have not been officially determined shall be made by the Superintendent and limited to 1 year unless specific authority for a longer term has been granted

by the Commissioner of Indian Affairs. Rentals shall be deposited to the credit of the estate pending the formal determination of the heirs. Thereafter, if the adult heirs who own a majority of interest in the land desire and agree to lease it and one or two heirs, after proper explanation, refuse, the Superintendent should report the facts to the Commissioner of Indian Affairs with the recommendation that he be authorized to sign for them.

8. The State laws should be followed in making, holding, or transferring leases of restricted Indian land. The rental value of land to be leased through the agency should be carefully appraised by a competent employee versed in land values; and every effort made to obtain the highest possible rental therefor (not less than the appraisal), by so advertising as to obtain such competition as may be possible. Offers may be made either by sealed bids or at public auction as conditions render advisable, and the method adopted should be stated in the advertisement. The lease shall be awarded to the highest satisfactory bidder except that, ^{in the case of sealed bids} other things being equal, if the old lessee has been a good tenant and submits other than the high bid he may be given an opportunity to meet it when so specified in the advertisement.

9. Whenever it is deemed advisable to lease allotted Indian land for business purposes, the Superintendent should report the facts, object, terms, and conditions of the proposed lease to the Commissioner of Indian Affairs, who, if he deems it proper, may grant authority therefor, and no lease of this nature should be made with-

out such prior approval.

10. Authority of law for farming leases on tribal land is found in the Act of August 15, 1894 (28 Stat. L., 305), which provides that the lands of any Indian tribe may be leased for this purpose with the consent of the council. This includes both treaty and Executive order reservation. The term "tribal council" is interpreted to mean the council, business committee, or other body authorized to represent the tribe in such matters; and the approval should be given in writing. Comply with Section 8 as to advertising.

11. The rental of tribal land for grazing and business purposes is accomplished by permits revocable in the discretion of the Secretary of the Interior, after advertising, if practicable, as required by Section 8 hereof.

12. All tribal leases and permits require the approval of the Secretary of the Interior and should be transmitted to the Commissioner of Indian Affairs with full information for that purpose.

13. No lease shall be negotiated more than seven months prior to the date it is to become effective. No person, firm, or corporation shall lease more than 640 acres of allotted or tribal Indian land for farming purposes without special prior authority from the Commissioner of Indian Affairs.

14. Leases and permits must provide that the rentals shall be paid annually or semi-annually in advance and be supported by an adequate bond with at least two individual sureties or a private

corporate surety company in an amount not less than the entire sum of the rental unless it is paid in advance for the full term.

15. No leases shall be assigned, sub-let, or transferred, without the written consent of all parties thereto including the sureties, and the approval of the Superintendent or other officer who finally approved the original lease.

16. The Superintendent should make every effort to see that lessees and permittees comply with the regulations and the terms of their contracts. Should violations thereof occur, the Superintendent should serve written notice on the lessee to show cause why the lease should not be canceled. Upon receipt of the answer it should be transmitted to the Commissioner of Indian Affairs with a full report of the facts and the Superintendent's recommendation.

17. Where good reasons justify additional time for the payment of rentals, the Superintendent may grant a reasonable extension therefor at the usual rate of interest with the written consent of all parties including the sureties, and the approval of the Commissioner of Indian Affairs.

18. Requests for court action on leases to collect delinquent rentals, damages, etc., shall be made by the Superintendent directly to the United States Attorney, accompanied by a copy of the lease. If thereafter and prior to the actual filing of the case in court, the rental is paid, the United States Attorney should be promptly advised. Where a compromise is offered after suit has been filed

and prior to judgment, the Superintendent should ascertain the amount of any court costs or expenses and submit the matter to the United States Attorney. If the amount due is \$500 or less and the United States Attorney approves, the Superintendent may accept the compromise. However, if it is over \$500, all the facts, with the recommendation of the Superintendent and the United States Attorney, should be submitted to the Commissioner of Indian Affairs for instructions. A compromise after judgment requires the approval of the Secretary of the Treasury. The Superintendent should transmit any such offer he may receive to the United States Attorney, who will know how to proceed in the matter.

19. All farming, all grazing, and all farming and grazing leases, shall contain a lien clause upon all crops, implements, livestock, or other property of the lessee on the premises as security for the payment of the rental and the performance of the contract. A copy of each lease should be promptly filed in the office of the proper county official, the fee therefor to be paid by the lessee. In states where the courts do not recognize a crop lien given before the seed is planted, all leases which require the Superintendent's approval must contain a provision substantially as follows:

"The lessee further agrees that each year, as soon as the crops have been planted, or on demand thereafter, he will execute and deliver to the Superintendent, his

promissory note in the sum of _____ for the annual rental herein stipulated, secured by a chattel mortgage on said crops; that each such chattel mortgage shall be a prior lien on the crops; that he will not otherwise assign, convey, encumber, mortgage or pledge the crops before compliance with this provision; that if he shall fail or refuse to execute and deliver said notes and mortgages as agreed, or shall, prior thereto, assign, convey, encumber, mortgage or pledge the crops then, and in that event this contract shall forthwith terminate, and the Superintendent, may at his option, on three days' notice, declare this lease forfeited and dispossess the lessee of the premises."

The description of the land, the kind of crops, and the acreage involved, must be recited in the mortgage. If, in any case, it becomes necessary to seize the mortgaged property, after doing so the Superintendent should report the facts to the Commissioner of Indian Affairs for instructions as to the procedure. The mortgage should be promptly recorded in the office of the proper local official at the expense of the lessee.

20. All leases and permits shall contain liquor and morality provisions substantially as follows:

"The lessee or permittee agrees that he will not use or permit the use of any part of the premises for the sale, gift, storage, or drinking of intoxicants; and that he will not allow gambling, immorality, or any illegal practices whatever, in or upon said premises. Violation of this clause will be deemed sufficient ground for cancellation of the lease or permit."

21. Where Indian land is rented (either by formal lease or revocable permit), sub-let, or assigned, for farming, grazing, or business purposes, fees shall be charged the lessee, permittee,

sub-lessee, or assignee, as follows:

Total rental.	Fee.
\$ -100.00	\$1.00
101.00-250.00	2.50
251.00-	5.00

In crop-share leases the fee may be computed either on the basis of the cash rental the acreage would bring or the estimated average value of the crops. Where, under the terms of the lease, the tenant is to pay the taxes, the amount thereof should be included in the total rental in computing the fee. In transfers of leases the fee should be based on the total rental due from the date of the approval of the transaction.

32. One of the main objects in making leases should be to provide the land with such permanent improvements as will best fit it for the eventual use and occupancy of the allottee as a home, such, for example, as buildings, fences, wells, fruit trees, alfalfa, proper rotation of crops, conservation of soil fertility, prevention of erosion, etc., unless the land is already provided therewith. Each lease should, therefore, provide for such of the specific improvements mentioned, or others, as will accomplish the desired result; for the repair and upkeep thereof at the expense of the tenant; and that the structures, etc., shall remain on the land and become the property

of the allottee. If the lessee is to erect additional improvements which he wishes to retain, the contract should include a specific provision to this effect, giving the tenant the right to remove them upon expiration of the lease. Leases for allottees who cannot personally utilize the land, such as those mentally or physically incapacitated, shall provide for such improvements as will maintain or enhance the rental and market value of the land.

23. When a married man is surety on a bond in states which require that the wife sign with him in order to bind their community property, both husband and wife should sign the bond.

24. All leases of irrigable land should contain a provision that the lessee will pay the water charges (including both construction, and operation and maintenance), "in conformity with the regulations prescribed therefor by the Secretary of the Interior".

25. If allotted Indian land is sold during the term of the lease, the purchaser takes it subject thereto unless there is a specific provision to the contrary in the lease. Ordinarily, of course, it is inadvisable to insert such a provision, as it makes the tenure of the lessee uncertain and is likely to discourage leasing; however, this matter will be left to the discretion of the Superintendents, who may in proper cases, and if agreeable to all parties, insert a clause in the lease to the effect that it will terminate on the sale of the land. When, as will generally be the

case, the lease is not to terminate, the sale will be effective as of the date of approval by the Secretary of the Interior; and rentals accruing thereafter should be paid to the purchaser.

26. The Act of May 26, 1926 (44 Stat. L., 659), limits the term of allotted leases on the Crow Reservation to 5 years. This applies to irrigable as well as to non-irrigable land. The act also provides that competent Crow allottees may lease their own allotments and those of their minor children for farming and grazing purposes and collect the rentals therefor. While not specifically stated, this is construed to mean that such leases can be made without the Superintendent's approval. Under the Act of March 3, 1927 (Public #728, 69th Congress, 2d Session), a new lease or renewal cannot be made of land already under lease on the Crow Reservation more than 18 months prior to the expiration of farming leases and 1 year in the case of grazing leases. This applies to independent leases made by competent Crow allottees as well as to those of incompetents executed through the Agency with the Superintendent's approval.

27. The Act of March 1, 1907 (34 Stat. L., 1034), authorizes the leasing of allotted and tribal land on the Fort Belknap Reservation, not to exceed a total of 20,000 acres, for not over 10 years, for sugar beets and other crops in rotation, under regulations to be prescribed by the Secretary of the Interior.

28. Under the Act of June 7, 1897 (30 Stat. L., 72), Quapaw allottees may lease their lands for not to exceed 3 years for farming and grazing, or 10 years for business purposes; and the lands of allottees incapacitated by age or disability may be leased, without limitation as to term, in the discretion of the Secretary of the Interior, and under regulations to be prescribed by him. This is construed to mean that competent Quapaw allottees may lease their lands for the stipulated periods without the Superintendent's approval. Leases of incompetents should be approved by the Superintendent and limited to the terms prescribed by Section 1 hereof.

29. The Act of April 30, 1908 (35 Stat. L., 95), permits leases to be made of allotted and tribal land on the Shoshone Reservation susceptible of irrigation for not to exceed 20 years under such regulations as the Secretary of the Interior may prescribe.

30. The Act of April 30, 1908 (35 Stat. L., 95), permits leases to be made of allotted land on the Uintah and Uncompahgre Reservations susceptible of irrigation for not to exceed 10 years under such regulations as the Secretary of the Interior may prescribe.

31. The Act of May 31, 1900 (31 Stat. L., 246), authorizes allottees on the Yakima Reservation to lease their unimproved lands for farming purposes for not to exceed 10 years under such regulations as the Secretary of the Interior may prescribe.

32. Where applicable, and not inconsistent with the above-mentioned special laws, the regulations herein prescribed shall govern leases thereunder.

33. Special regulations to meet variant conditions on the Flathead, Fort Hall, Kiowa, Omaha, Umatilla, and Wimsbago Reservations, heretofore prescribed, will remain in force until further notice.

34. The regulations herein prescribed will not apply to the Five Civilized Tribes or the Osage Reservation. The Act of May 27, 1908 (35 Stat. L., 312), governs farming and grazing leases in the territory of the Five Civilized Tribes; and special regulations have been promulgated therefor, printed in a separate pamphlet. Farming and grazing leases on the Osage Reservation may be made under the Act of June 28, 1906 (35 Stat. L., 545), and the regulations for such leases will be found on the reverse of the special lease form for this reservation.

35. All copies of leases and permits must be completely executed. The original should be given a contract serial number and sent immediately to the General Accounting Office, reference thereto being made in each account where rental thereunder is taken up. One copy should be placed in the agency files, one filed with the county clerk, one given to the lessor, and one to the lessee. One copy of all tribal leases and permits will be kept at

this Office for our files.

36. All prior regulations relative to farming, grazing, and business leases of allotted and tribal Indian land are hereby revoked except as otherwise provided herein.