EXHIBIT A

LAW OFFICE OF MICHAEL L. FRAME
Michael L. Frame (AZSB # 019466)
1308 Joshua Avenue
Parker, AZ 85344
Tel: 928-669-6565
E-mail: attyframe@hotmail.com

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

WATER WHEEL CAMP RECREATIONAL AREA, INC.; and ROBERT JOHNSON,	)	
Plaintiffs,	)	CIV 08-474-PHX-DGC
v.	)	
THE HONORABLE GARY LARANCE, in his capacity as the Chief and Presiding Judge of the Colorado River Indian Tribes Tribal Court; and PRISCILLA HILL, in her capacity as the Chief Court Clerk of the Colorado River Indian Tribes Tribal Court,	)	
Defendants.	)	

DECLARATION OF ROBERT JOHNSON

I, Robert Johnson, hereby declare and state as follows:

1. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, am competent to testify thereto.

2. I am, and at all times here relevant have been, the chief executive officer and co-owner of Water Wheel Camp Recreational Area, Inc. ("Water Wheel").

3. I have reviewed the Complaint for Declaratory and Injunctive Relief filed in this Court, on my behalf and on behalf of Water Wheel, against the Honorable Gary LaRance and Priscilla Hill, in their official capacities, as Chief and Presiding Judge, and Chief Court Clerk, respectively, of the Colorado River Indian Tribes Tribal Court. The allegations of fact contained within that Complaint are true and accurate.

4. Counsel for Water Wheel requested an adjournment of the eviction trial scheduled for March 14, 2008 in the Tribal Court Action, but that request was summarily rejected.

5. I have personally witnessed the Tribe engage in the following acts, and establish these actions as an apparent pattern of conduct in its dealings with residents, like Water Wheel, that reside within the "Disputed Area" referenced in the Complaint:

a. Forceful evictions have been accomplished by threats of incarceration with the cooperation of the Tribe and the Bureau of Indian Affairs police officers.

b. Residents who failed to vacate their property have had utilities terminated and personal property removed and/or destroyed by the Tribe. Electrical service has been terminated and sewer facilities rendered inoperable by the Tribe. Several times in the past, Southern California Edison Company, which supplies electrical service to Water Wheel, has terminated electrical service of residents within the Disputed Area at the Tribe 's insistence.

6. If the Tribal Court Action is allowed to proceed, and judgment entered against Water Wheel, there are thousands of dollars of inventory at the Water Wheel facility that the Tribe could remove from the premises with no effective means of ever having it returned. In addition, there are tens of thousands of dollars worth of equipment that could be easily removed

by the Tribe. Even if Water Wheel is eventually successful, once an eviction order is entered by the Tribal Court, and Water Wheel's assets are removed, it will be virtually (if not actually) impossible to recover those assets from the Tribe.

7. If the Tribe forcefully takes over the Water Wheel facility, it will be virtually (if not actually) impossible to have the tenants of Water Wheel pay future rent to Water Wheel.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Further Declarant sayeth not.

Robert Johnson

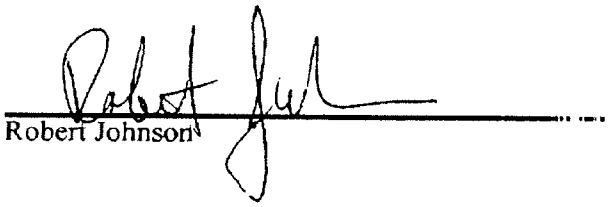
Dated: March 11, 2008

by the Tribe. Even if Water Wheel is eventually successful, once an eviction order is entered by the Tribal Court, and Water Wheel's assets are removed, it will be virtually (if not actually) impossible to recover those assets from the Tribe.

7. If the Tribe forcefully takes over the Water Wheel facility, it will be virtually (if not actually) impossible to have the tenants of Water Wheel pay future rent to Water Wheel.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Further Declarant sayeth not.



Robert Johnson

Dated: March 11, 2008

EXHIBIT B

DICKINSON WRIGHT PLLC
Dennis J. Whittlesey (*Pro Hac Vice*)
1901 L St. NW, Suite 800
Washington, D.C. 20036
Tel: 202-659-6928
E-mail: [redacted]

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

WATER WHEEL CAMP RECREATIONAL AREA, INC. and ROBERT JOHNSON,	)	
Plaintiffs,	)	CIV 08-474-PHX-DGC
v.	)	
THE HONORABLE GARY LARANCE, in his capacity as the Chief and Presiding Judge of the Colorado River Indian Tribes Tribal Court; and PRISCILLA HILL, in her capacity as the Chief Court Clerk of the Colorado River Indian Tribes Tribal Court,	)	
Defendants.	)	

SECOND DECLARATION OF ROBERT JOHNSON

Robert Johnson, hereby declares and states the following:

1. I have personal knowledge of the facts set forth herein and, if called and sworn as a witness, am competent to testify thereto.

2. I am, and at all times here relevant to matters at issue in this litigation, have been the chief executive officer and co-owner of the stock of Water Wheel Camp Recreational Area, Inc. ("Water Wheel").

3. I purchased the stock of Water Wheel from Mr. and Mrs. Denham on May 1, 1981. Included with my purchase was Water Wheel's lease with the United States, Lease No. B-468-CR ("Lease"). I was told by the Denhams that the Lease was administered by the Bureau of Indian Affairs ("BIA") and that was who I would deal with – the Denhams never mentioned anything about the Colorado River Indian Tribes ("CRIT" or "Tribe"). The Denhams also told me that I would deal with the County of Riverside, California on all building matters.

4. Pursuant to Article IV of the Lease, from May 1, 1981, until May 1, 1986, I made all rental payments directly to the Bureau of Indian Affairs.

5. On or about May 1, 1986, BIA official Donna McCurdy directed me to send all future rental payments under the Lease to the offices of the Colorado River Indian Tribes. Water Wheel complied with that directive. No explanation was given for this change in rental payment policy.

6. In accordance with Article 5 of the Addendum to the Lease, all improvements made or placed on the Water Wheel property (to which the Lease pertains) were constructed in accordance with the requirements of the State of California and Riverside County, California as required by the Lease.

7. From May 1, 1981, until May 1, 1983, as required by the Lease, all improvements constructed at the Water Wheel property were routinely inspected by Riverside County officials; in addition, all fees were paid to, construction was approved by, and inspections were conducted by Riverside County.

8. At some date unknown to me, but believed to have been in 1983, the Riverside County inspector with whom I worked advised me that he had met with Steve Lamb, a CRIT employee and building inspector. According to the Riverside County Inspector, he was warned by Mr. Lamb that the Tribe did not believe that the County had jurisdiction over the Water Wheel leasehold and was admonished that the land was within CRIT's reservation. I was not party to that meeting with Mr. Lamb, but was advised shortly after learning about it that Riverside County no longer would have a role in inspections and permit issuance at the Water Wheel property. Although Water Wheel never consented to tribal building inspections, as required by Section 34 of the Lease Addendum, Water Wheel was compelled to attempt to work with tribal building inspectors in the absence of County inspections and permitting.

9. It is at this time that Water Wheel began to experience difficulties in developing the Water Wheel Resort, as contemplated under Articles IV and VI of the Lease. Upon CRIT's assumption of building inspections, Water Wheel immediately began experiencing problems in obtaining inspections and building permits – problems never experienced while they were functions of Riverside County. On July 5, 1985, Water Wheel sent a letter to the BIA documenting Water Wheel's efforts to obtain BIA assistance in obtaining development approval of its leasehold.

10. Around this same time, CRIT also assumed control of access to electrical service because Southern California Edison Company suddenly refused to energize new electrical service to Water Wheel without CRIT approval. CRIT withheld such approvals and, as a result, Water Wheel was only able to install 11 new mobile homes from 1990 to 1997. In fact, Water Wheel had the capacity to install 23 more mobile homes.

11. CRIT refused to allow Water Wheel to fully develop its property although such activity was both contemplated and required under Articles IV and VI of the Lease. Over the years, CRIT officials threatened and intimidated me, as well as employees, contractors, and residents of Water Wheel. CRIT officials have told many of Water Wheel's employees and contractors to cease work at Water Wheel or the Tribe would prevent them from working anywhere on its reservation. CRIT also refused to issue building permits, refused to approve construction projects, refused to conduct inspections, refused to consent to electrical installations and issued stop work notices on projects under construction at Water Wheel.

12. During this same period of time, extensive correspondence was exchanged documenting Water Wheel's difficulties with CRIT, as well as BIA's unwillingness to insure that Water Wheel would have the full benefit of development contemplated by the Lease itself. For example, on November 15, 1989, Water Wheel sent a letter to BIA reporting a lack of cooperation by CRIT at our property while development was proceeding at other CRIT facilities. On November 12, 1991, Water Wheel sent a letter to BIA attempting to arrange a meeting to discuss this disparate treatment.

13. On March 1, 2000, Water Wheel sent a letter to BIA documenting the stop work notices that CRIT issued at Water Wheel. On May 18, 2000, another letter was sent to BIA documenting numerous problems Water Wheel was experiencing due to CRIT's interference with development under the Lease. Again, on August 14, 2000, we sent another letter noting further interference from CRIT. We documented Water Wheel's costs of complying with arbitrary CRIT demands and CRIT efforts to force Water Wheel to pay more for improvements in a letter to BIA dated October 4, 2000. On April 3, 2001, Water Wheel sent a letter to one of our attorneys, Tim Moore, documenting CRIT interference at Water Wheel. CRIT sent a letter

to Water Wheel on April 4, 2002, unequivocally stating that the CRIT Tribal Council will not allow "any new building projects" nor "issue any Building Permits." We then, in a letter dated October 23, 2002, from Tim Moore to Herman Laffoon of the CRIT Tribal Council, documented CRIT's harassment at Water Wheel. A further letter was sent on November 15, 2002, from CRIT attempting to deny plan approval at Water Wheel. These are just a few examples of the frustrating interference that CRIT made upon Water Wheel and me personally in an unambiguous effort to restrict my lawful development of the Water Wheel leasehold.

14. During this same period of time, CRIT allowed installation of approximately 100 new homes at its nearby Aha Quin Resort, as well as approximately 100 homes at Hidden Valley, another nearby resort of which CRIT is a limited partner. Since I was only able to install 11 new homes at Water Wheel, it became clear that CRIT's actions constituted calculated interference and refusal to allow new construction at Water Wheel and were intended to limit and even reduce competition with its own business activities at the two other resorts one of which is entirely controlled by CRIT. It is my opinion that CRIT's pattern of conduct over the years was calculated to force me to sell or vacate Water Wheel's Lease.

15. Over the years, I have met with various CRIT officials and members of the CRIT Tribal Council, as well as each of the BIA Superintendents for the Colorado River Agency to discuss their failure to honor the clear provisions of the Lease and the unfair policy CRIT had adopted in administering the Lease. Since 1983, I have met with Clyde Ballard, Laura Austin, Allen Anspach and Jeffrey Hinkins on at least five (5) or six (6) occasions with each of them – and Mr. Hinkins repeatedly assured me that the Lease was binding on both CRIT and Water Wheel. I also met with many other BIA officials, including Rodney McVey and Goldie Stroup. As early as April 27, 1989, on behalf of Water Wheel, I offered to pay CRIT extra money (above

the Lease requirements) so that Water Wheel could build out the resort. On July 24, 1990, Water Wheel again offered CRIT additional money so that Water Wheel could build out the resort as contemplated by the Lease. No matter what financial terms were proposed or offered, CRIT refused all proposals, leading me to conclude that its motivation was to force Water Wheel out of business and thereby reduce the competition with CRIT's other resorts. Frankly, CRIT's actions rendered Water Wheel's business unmarketable, so selling the company was never an option.

16. Around January, 2000, CRIT increased its interference with the business operations at Water Wheel, despite our continued correspondence and repeated efforts to work with CRIT and BIA to properly develop Water Wheel Resort, as contemplated and required by Articles IV and VI of the Lease. For example, Ambrose Howard of CRIT repeatedly demanded that work be halted at Water Wheel, although he had no grounds to do so. Mr. Howard frequently entered Water Wheel and drove around the property without consent. His constant presence created an atmosphere of uncertainty and doubt with our employees, contractors and customers.

17. As a result of CRIT's continued interference with Water Wheel's business operations and its absolute refusal to engage in good faith negotiations regarding the amount of the annual rent increase, Water Wheel was forced to file with the BIA a Request for Action pursuant to Title 25 of the Code of Federal Regulations ("25 C.F.R. Appeal"), in accordance with the Lease provisions concerning dispute resolution. The 25 C.F.R. Appeal was first filed with the BIA's Parker Area Superintendent on May 4, 2001. The Superintendent failed to take any action on the 25 C.F.R. Appeal, so it was then filed with the BIA's Western Regional Director in Phoenix, Arizona on June 6, 2001. The 25 C.F.R. Appeal is still pending.

18. At the time of filing of the 25 C.F.R. Appeal, Water Wheel had documented damages caused by CRIT's actions of $968,304. Among other things still pending in the 25 C.F.R. Appeal, Water Wheel is seeking an extension of the Lease as its only means of recovering at least some portion of the damages caused by CRIT's interference with its business over the years.

19. CRIT never participated in the 25 C.F.R. Appeal; rather it initiated proceedings in CRIT's Tribal Court against both Water Wheel and me in an individual capacity. It is my opinion that CRIT's lawsuit against Water Wheel and me in its own tribal court is motivated by bad faith, is an attempt to avoid the 25 C.F.R. process, and is a continuation of CRIT's harassment against Water Wheel and me.

20. After this Court issued an Order directing me to exhaust tribal court proceedings, my lawyers and I attended a "jurisdictional hearing" on March 14, 2008, before Judge LaRance of the CRIT Tribal Court. At that hearing, Judge LaRance barred my lawyers from introducing any evidence contesting CRIT's assertion that Water Wheel's leasehold property is located within the CRIT Reservation.

21. During that same jurisdictional hearing, Judge LaRance took a morning break after which he stated he had just consulted with his lawyer and had been informed that a ruling had just been issued by this Court. When he then began talking about this Court's ruling, one of our attorneys reminded the Judge that (a) he (our attorney) was counsel in the federal litigation, (b) the Judge is a named defendant represented by legal counsel and (c) our legal team was not comfortable discussing this Court's order with him.

22. Judge LaRance kept us at the jurisdictional hearing all day on March 14, 2008, and at the end of the day ruled that the CRIT Tribal Court does have jurisdiction over both Water

Wheel and me personally. He then asked out loud, "Where is that paper?" After searching among papers on the bench, he picked up a single page and read out loud a detailed decision, ruling that the CRIT Tribal Court has jurisdiction over Water Wheel and over me personally. The Judge and all of the parties had been in the tribal court without any break for at least the previous one and a half hours, during which counsel completed their respective cases and closing arguments, when he read his pre-prepared decision. Thus, it was clear that Judge LaRance had decided the jurisdiction issue prior to at the March 14 trial.

23. I asked my lawyers to immediately appeal Judge LaRance's jurisdictional ruling to the CRIT Tribal Court of Appeals since that was a final ruling on jurisdiction, and they did so. In response, Chief Judge Karla Starr of the CRIT Tribal Court of Appeals summarily denied the appeal and issued an order that my attorneys should file statements by May 2, 2008, as to why she should not enter an order to show cause that they be sanctioned for filing an interlocutory appeal.

24. In summary, CRIT threatened me and other Water Wheel employees and contractors, violated the terms of Water Wheel's lease, withheld building and electrical permits, interfered in the daily operations at Water Wheel, prohibited the growth of Water Wheel Resort, caused the loss of millions of dollars in lost revenue, and rendered my business unmarketable. And now I am before a tribal court where my lawyers cannot even put on a good defense or otherwise challenge or appeal the jurisdiction of the CRIT Tribal Court. I fear that the CRIT Tribal Court will evict me and enter a judgment for damages, all while CRIT refuses to engage in good faith negotiations over rental adjustments or otherwise participate in Water Wheel's 25 C.F.R. Appeal, both of which are requirements under the Lease.

25. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

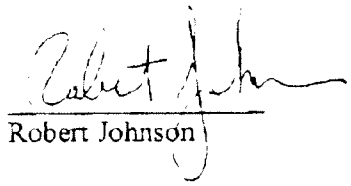
Further Declarant sayeth not.

_____
Robert Johnson

Dated: April 22, 2008

25 Pursuant to 28 U S C §1746, I declare under penalty of perjury that the foregoing is true and correct

Further Declarant sayeth not



Robert Johnson

Dated: April 22, 2008

DICKINSON WRIGHT PLLC
Dennis J. Whittlesey (*Pro Hac Vice*)
1901 L St. NW, Suite 800
Washington, D.C. 20036
Tel: 202-659-6928
E-mail: dwhittlesey@dickinsonwright.com

LAW OFFICE OF MICHAEL L. FRAME
Michael L. Frame (AZSB # 019466)
1308 Joshua Avenue
Parker, AZ 85344
Tel: 928-669-6565
E-mail: attyframe@hotmail.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

WATER WHEEL CAMP RECREATIONAL AREA, INC. *et al.*, Plaintiffs, v. THE HONORABLE GARY LARANCE, *et al.*, Defendants.	CIV 08-474-PHX-DGC **PLAINTIFFS' STATEMENT OF FACTS IN SUPPORT OF SECOND EMERGENCY APPLICATION AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiffs Water Wheel Camp Recreational Area, Inc. and Robert Johnson respectfully submit the following Statement of Facts for this Court's consideration.

1. Plaintiffs Water Wheel Camp Recreational Area, Inc. ("Water Wheel") and Robert Johnson, by and through their attorneys, submit this Statement of Facts in Support of their Second Emergency Application and Motion for Temporary Restraining Order and Preliminary Injunction. Seven declarations attached hereto modestly illustrate the profound set

of facts that Robert Johnson and his family continue to endure. *See generally*, Second Declaration of Robert Johnson ("Bob Johnson Decl."), attached hereto as Exhibit A; Declaration of Brandon Johnson ("Bran. Johnson Decl."), attached hereto as Exhibit B; Declaration of Tobi Johnson ("Tobi Johnson Decl."), attached hereto as Exhibit C; Declaration of Salvador Sepulveda ("Sepulveda Decl."), attached hereto as Exhibit D; Declaration of Robert Rymer ("Rob Rymer Decl."), attached hereto as Exhibit E; Declaration of Richard Rymer ("Rich. Rymer Decl."), attached hereto as Exhibit F; and, (7) Declaration of Craig Chute ("Chute Decl."), attached hereto as Exhibit G.

2. In 1975, Water Wheel executed Lease No. B-468-CR with the U.S. Department of the Interior ("Lease"), wherein the Secretary of the Interior ("Secretary") named the Colorado River Indian Tribes ("CRIT" or "Tribe") as the lessor. A true and correct copy of the Lease is attached as Exhibit A to the Complaint.

3. Robert Johnson purchased the stock of Water Wheel from Mr. and Mrs. Denham on May 1, 1981 and the Lease was included in Johnson's purchase of Water Wheel. Bob Johnson Decl. ¶ 3. Johnson was told by the Denhams that the Lease was administered by the Bureau of Indian Affairs ("BIA") and that is who he would be dealing with. *Id.* The Denhams never mentioned anything about the Tribe, but told Johnson that he would need to deal with the County of Riverside, California on all building matters. *Id.*

4. Pursuant to Article IV of the Lease, from May 1, 1981, until May 1, 1986, Water Wheel made all rental payments directly to the Bureau of Indian Affairs. Johnson Decl. ¶ 4. On or about May 1, 1986, BIA official Donna McCurdy directed Water Wheel to send all future rental payments under the Lease to the offices of CRIT. *Id.* Water Wheel complied with that directive although no explanation was given for this change in rental payment policy. *Id.*

5. In accordance with Article 5 of the Addendum to the Lease, all improvements made or placed on the Water Wheel property were constructed in accordance with the requirements of the State of California and Riverside County, California as required by the Lease. Bob Johnson Decl. ¶ 6. From May 1, 1981, until May 1, 1983, as required by the Lease, all improvements constructed at the Water Wheel property were routinely inspected by Riverside County officials; in addition, all fees were paid to, construction was approved by, and inspections were conducted by Riverside County. Bob Johnson Decl. ¶ 7.

6. Sometime in 1983, the Riverside County inspector with whom Water Wheel worked advised Robert Johnson that the County inspector had met with Steve Lamb, a CRIT employee and building inspector. Bob Johnson Decl. ¶ 8. According to the Riverside County Inspector, he was warned by Mr. Lamb that the Tribe did not believe that the County had jurisdiction over the Water Wheel leasehold and was admonished that the land was within CRIT's reservation. *Id.* Robert Johnson was advised shortly after learning about this meeting that Riverside County no longer would have a role in inspections or permit issuance at the Water Wheel property. *Id.* Although Water Wheel never consented to tribal building inspections, as required by Section 34 of the Lease Addendum, Water Wheel was compelled to attempt to work with tribal building inspectors in the absence of County inspections and permitting. *Id.*

7. It is at this time that Water Wheel began to experience difficulties in developing the Water Wheel Resort, as contemplated under Articles IV and VI of the Lease. Bob Johnson Decl. ¶ 9. Upon CRIT's assumption of building inspections, Water Wheel immediately began experiencing problems in obtaining inspections and building permits – problems never experienced while they were functions of Riverside County. *Id.* On July 5, 1985, Water Wheel

sent a letter to the BIA documenting Water Wheel's efforts to obtain BIA assistance in obtaining development approval of its leasehold. *Id.*

8. Around this same time, CRIT also assumed control of access to electrical service because Southern California Edison Company suddenly refused to energize new electrical service to Water Wheel without CRIT approval. Bob Johnson Decl. ¶ 10. CRIT withheld such approvals and, as a result, Water Wheel was only able to install 11 new mobile homes from 1990 to 1997. *Id.* In fact, Water Wheel had the capacity to install 23 more mobile homes. *Id.*

9. Since at least 1985, various CRIT officials have engaged in a continuous pattern of conduct designed to interfere with business operations and prevent full development of Water Wheel's leasehold, and thereby gain a competitive advantage at nearby resorts owned or operated by CRIT. Bob Johnson Decl. ¶ 9. According to a former employee of CRIT, this interference was conducted pursuant to tribal policy orchestrated by the CRIT Tribal Council and the CRIT Attorney General's office. Chute Decl. ¶ 6. CRIT officials threatened contractors performing work at Water Wheel to stop work or they would never again be permitted to do business with CRIT. Rob. Rymer Decl. ¶ 3; Rich. Rymer Decl. ¶ 3; *see also* Chute Decl. ¶ 5. CRIT also refused to issue building permits, refused to approve construction projects, refused to conduct inspections, refused to consent to electrical installations and issued stop work notices on projects under construction at Water Wheel. Bob Johnson Decl. ¶ 11.

10. Extensive correspondence was exchanged documenting Water Wheel's difficulties with CRIT, as well as BIA's unwillingness to insure that Water Wheel would have the full benefit of development contemplated by the Lease itself. Bob Johnson Decl. ¶ 12. For example, on November 15, 1989, Water Wheel sent a letter to the BIA reporting a lack of cooperation by CRIT at the Water Wheel leasehold while development was proceeding at other

CRIT facilities. *Id.* On November 12, 1991, Water Wheel sent a letter to BIA attempting to arrange a meeting to discuss this disparate treatment. *Id.*

11. Over the years, Robert Johnson met with various CRIT officials and members of the CRIT Tribal Council, as well as each of the BIA Superintendents for the Colorado River Agency to discuss their failure to honor the clear provisions of the Lease and the unfair policy CRIT had adopted in administering the Lease. Bob Johnson Decl. ¶ 15. Since 1983, Robert Johnson met with Clyde Ballard, Laura Austin, Allen Anspach and Jeffrey Hinkins on at least five or six occasions with each of them – and Mr. Hinkins repeatedly assured Robert Johnson that the Lease was binding on both CRIT and Water Wheel. *Id.* Johnson also met with many other BIA officials, including Rodney McVey and Goldie Stroup. *Id.* As early as April 27, 1989, on behalf of Water Wheel, Johnson offered to pay CRIT extra money (above the Lease requirements) so that Water Wheel could build out the resort. *Id.* On July 24, 1990, Water Wheel again offered CRIT additional money so that Water Wheel could build out the resort as contemplated by the Lease. *Id.* No matter what financial terms were proposed or offered, CRIT refused all proposals, leading Johnson to conclude that CRIT's motivation was to force Water Wheel out of business and thereby reduce the competition with CRIT's other resorts. *Id.*

12. During the late 1990s, CRIT's harassment and bad faith conduct toward Water Wheel escalated and is documented in a long-running chain of correspondence between Water Wheel, CRIT and the Bureau of Indian Affairs ("BIA"). Bob Johnson Decl. ¶¶ 12-13. CRIT continued to interfere with Water Wheel's business operations and full development of its Lease and refused to negotiate in good faith over "fair annual rental value" as specifically required by Section IV.A. of the Lease. *Id.* ¶ 17.

13. On March 1, 2000, Water Wheel sent a letter to BIA documenting the stop work notices that CRIT issued at Water Wheel. Bob Johnson Decl. ¶ 13. On May 18, 2000, another letter was sent to BIA documenting numerous problems Water Wheel was experiencing due to CRIT's interference with development under the Lease. *Id.* Again, on August 14, 2000, Water Wheel sent another letter noting further interference from CRIT. *Id.* Water Wheel documented its costs of complying with arbitrary CRIT demands and CRIT efforts to force Water Wheel to pay more for improvements in a letter to BIA dated October 4, 2000. *Id.* On April 3, 2001, Water Wheel sent a letter to one of our attorneys, Tim Moore of Redondo Beach, CA, documenting CRIT interference at Water Wheel. *Id.* CRIT sent a letter to Water Wheel on April 4, 2002, unequivocally stating that the CRIT Tribal Council will not allow "any new building projects" nor "issue any Building Permits." *Id.* Water Wheel then, in a letter dated October 23, 2002, from Tim Moore to Herman Laffoon of the CRIT Tribal Council documented CRIT's harassment at Water Wheel. *Id.* A further letter was sent on November 15, 2002, from CRIT attempting to deny plan approval at Water Wheel. *Id.* These are just a few examples of the frustrating interference that CRIT made upon Water Wheel and Robert Johnson personally in an unambiguous effort to restrict his lawful development of the Water Wheel leasehold. *Id.*

14. During this same period of time, CRIT allowed installation of approximately 100 new homes at its nearby Aha Quin Resort, as well as approximately 100 homes at Hidden Valley, another nearby resort of which CRIT is a limited partner. Bob Johnson Decl. ¶ 14. Since Water Wheel was only able to install 11 new homes, it became clear that CRIT's actions constituted calculated interference and refusal to allow new construction at Water Wheel and were intended to limit and even reduce competition with CRIT's own business activities at the two other resorts one of which is entirely controlled by CRIT. *Id.* It is Robert Johnson's opinion

that CRIT's pattern of conduct over the years was calculated to force him to sell or vacate Water Wheel's Lease. *Id.*

15. Around January 2000, CRIT increased its interference with the business operations at Water Wheel, despite Water Wheel's continued correspondence and repeated efforts to work with CRIT and the BIA to properly develop Water Wheel Resort in the manner contemplated and required by Articles IV and VI of the Lease. Bob Johnson Decl. ¶ 16. For example, Ambrose Howard of CRIT repeatedly demanded that work be halted at Water Wheel, although he had no grounds to do so. *Id.* *See also* Chute Decl. ¶ 5. Mr. Howard frequently entered Water Wheel and drove around the property without consent. Bob Johnson Decl. ¶ 16. His constant presence created an atmosphere of uncertainty and doubt with Water Wheel's employees, contractors and customers. *Id.* Frankly, CRIT's actions rendered Water Wheel's business unmarketable, so selling the company was never an option for Johnson. *Id.*

16. As a result of CRIT's continued interference with Water Wheel's business operations and its absolute refusal to engage in good faith negotiations regarding the amount of the annual rent increase, Water Wheel was forced to file with the BIA a Request for Action pursuant to Title 25 of the Code of Federal Regulations ("25 C.F.R. Appeal"), in accordance with the Lease provisions concerning dispute resolution. Bob Johnson Decl. ¶ 17. The 25 C.F.R. Appeal was first filed with the BIA's Parker Agency Superintendent on May 4, 2001. *Id.* The Superintendent failed to take any action on the 25 C.F.R. Appeal, so it was then filed with the BIA's Western Regional Director in Phoenix, Arizona on June 6, 2001. *Id.* The 25 C.F.R. Appeal is still pending. *Id.*

17. At the time of filing of the 25 C.F.R. Appeal, Water Wheel had documented damages caused by CRIT's actions of $968,304. Bob Johnson Decl. ¶ 18. Among other things

still pending in the 25 C.F.R. Appeal, Water Wheel is seeking an extension of the Lease from the Department of the Interior as its only means of recovering at least some portion of the damages caused by CRIT's interference with its business over the years. *Id.* CRIT never participated in the 25 C.F.R. Appeal; rather it initiated proceedings in CRIT's Tribal Court against both Water Wheel and Robert Johnson in his individual capacity on October 1, 2007. Bob Johnson Decl. ¶ 19.

18. Since CRIT sued Water Wheel in its own tribal court, CRIT's acrimonious conduct directed toward Water Wheel and Robert Johnson has intensified. In this regard, CRIT officials have harassed Robert Johnson's family as recently as March 27, 2008. Tobi Johnson Decl. ¶ 3; Bran. Johnson Decl. ¶¶ 3-4. And since the entry of this Court's March 14, 2008 Order, on April 14 and April 16, CRIT dispatched tribal helicopters to circle above Water Wheel's property in an effort clearly calculated to intimidate the customers, employees and residents of Water Wheel. Bran. Johnson Decl. ¶ 5; *see also* Sepulveda Decl. ¶ 3.

19. It is Johnson's opinion that CRIT's lawsuit against Water Wheel and him personally in CRIT's own tribal court is motivated by bad faith, is an attempt to avoid the 25 C.F.R. process, and is a continuation of CRIT's harassment against Water Wheel and Johnson. Bob Johnson Decl. ¶ 19. After this Court issued the March 14, 2008 Order directing Water Wheel to exhaust tribal court proceedings, Johnson and his lawyers attended a "jurisdictional hearing" on March 14, 2008, before Judge LaRance of the CRIT Tribal Court. Bob Johnson Decl. ¶ 20. At that hearing, Judge LaRance barred Johnson's lawyers from introducing any evidence contesting CRIT's assertion that Water Wheel's leasehold property is located within the CRIT Reservation. *Id.*

20. During that same jurisdictional hearing, Judge LaRance took a morning break after which he stated he had just consulted with his lawyer and had been informed that a ruling had just been issued by this Court. Bob Johnson Decl. ¶ 21. When he then began talking about this Court's ruling, one of the Water Wheel attorneys reminded the Judge that (a) he (our attorney) was counsel in the federal litigation, (b) the Judge is a named defendant represented by legal counsel and (c) the Water Wheel legal team was not comfortable discussing this Court's order with him. *Id.*

21. Judge LaRance kept Johnson and his attorneys at the jurisdictional hearing all day on March 14, 2008, and at the end of the day ruled that the CRIT Tribal Court does have jurisdiction over both Water Wheel and Johnson personally. Bob Johnson Decl. ¶ 22. Judge LaRance then asked out loud, "Where is that paper?" *Id.* After searching among papers on the bench, he picked up a single page and read out loud a detailed decision, ruling that the CRIT Tribal Court has jurisdiction over Water Wheel and over Johnson personally. *Id.* The Judge and all of the parties had been in the tribal court without any break for at least the previous one and a half hours, during which counsel completed their respective cases and closing arguments, when he read his pre-prepared decision. *Id.* Thus, it was clear that Judge LaRance had decided the jurisdiction issue prior to at the March 14 trial. *Id.*

22. Water Wheel immediately appealed Judge LaRance's jurisdictional ruling to the CRIT Tribal Court of Appeals since that was a final ruling on jurisdiction. Bob Johnson Decl. ¶ 23. In response, Chief Judge Karla Starr of the CRIT Tribal Court of Appeals summarily denied the appeal and issued an order that its attorneys should file statements by May 2, 2008, as to why she should not enter an order to show cause that they be sanctioned for filing an interlocutory appeal. *Id.*

23. In summary, various CRIT officials threatened Johnson and his family, and other Water Wheel employees and contractors, violated the terms of Water Wheel's lease, withheld building and electrical permits, interfered in the daily operations at Water Wheel, prohibited the growth of Water Wheel Resort, caused the loss of millions of dollars in lost revenue, and rendered the business unmarketable. Bob Johnson Decl. ¶ 24. And now Johnson is before a tribal court where his lawyers cannot even put on a good defense or otherwise challenge or appeal the jurisdiction of the CRIT Tribal Court. *Id.* Johnson fears that the CRIT Tribal Court will evict him and enter a judgment for damages, all while CRIT refuses to engage in good faith negotiations over rental adjustments or otherwise participate in Water Wheel's 25 C.F.R. Appeal, both of which are requirements under the Lease. *Id.*

DATED this 10th day of May 2008.

DICKINSON WRIGHT PLLC

By: s/Dennis J. Whittlesey
Dennis J. Whittlesey (*Pro Hac Vice*)
1901 L St. NW, Suite 800
Washington, DC 20036
Tel: 202-659-6928
E-mail: dwhittlesey@dickinsonwright.com

LAW OFFICE OF MICHAEL L. FRAME
Michael L. Frame (AZSB # 019466)
1308 Joshua Avenue
Parker, AZ 85344
Tel: 928-669-6565
E-mail: attyframe@hotmail.com

Attorneys for Plaintiffs

EXHIBIT C

25

Indians

Revised as of Apr 1 1975

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

SUBCHAPTER A—PROCEDURES; PRACTICE

SUBCHAPTER A—PROCEDURES; PRACTICE

PART 1—APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

AUTHORITY: The provisions of this Part 1 issued under 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2.

SOURCE: The provisions of this Part 1 appear at 25 F.R. 3124, Apr. 12, 1960, unless otherwise note.

§ 1.1 [Reserved]

§ 1.2 Applicability of regulations and reserved authority of the Secretary of the Interior.

The regulations in Chapter I of Title 25 of the Code of Federal Regulations are of general application. Notwithstanding any limitations contained in the regulations of this Chapter, the Secretary retains the power to waive or make exceptions to his regulations as found in Chapter I of Title 25 of the Code of Federal Regulations in all cases where permitted by law and the Secretary finds that such waiver or exception is in the best interest of the Indians.

§ 1.3 Scope.

Chapters I and II of this title contain the bulk of the regulations of the Department of the Interior of general application relating to Indian affairs. Subtitle B, Chapter I, Title 43 of the Code of Federal Regulations contains rules relating to the relationship of Indians to public lands and townsites. Subtitle A of Title 43 of the Code of Federal Regulations has application to certain aspects of Indian affairs and, among other things, governs practice before the Department of the Interior, of which the Bureau of Indian Affairs is a part. Indian health matters are covered in 42 CFR Part 36. Title 30 of the Code of Federal Regulations contains regulations on oil and gas and other mining operations which, under certain circumstances, may be applicable to Indian resources.

§ 1.4 State and local regulation of the use of Indian property.

(a) Except as provided in paragraph (b) of this section, none of the laws, ordinances, codes, resolutions, rules or other regulations of any State or political subdivision thereof limiting, zoning or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, shall be applicable to any such property leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

(b) The Secretary of the Interior or his authorized representative may in specific cases or in specific geographic areas adopt or make applicable to Indian lands all or any part of such laws, ordinances, codes, resolutions, rules or other regulations referred to in paragraph (a) of this section as he shall determine to be in the best interest of the Indian owner or owners in achieving the highest and best use of such property. In determining whether, or to what extent, such laws, ordinances, codes, resolutions, rules or other regulations shall be adopted or made applicable, the Secretary or his authorized representative may consult with the Indian owner or owners and may consider the use of, and restrictions or limitations on the use of, other property in the vicinity, and such other factors as he shall deem appropriate.

[30 F.R. 7520, June 9, 1965]

§ 1.10 Availability of forms.

Forms upon which applications and related documents may be filed and upon which rights and privileges may be granted may be inspected and procured at the Bureau of Indian Affairs, Washington, D.C., and at the office of any Area Director or Agency Superintendent.

PART 2—APPEALS FROM ADMINISTRATIVE ACTIONS

AUTHORITY: The provisions of this Part 2 issued under R.S. 463, 465; 5 U.S.C. 301, 25 U.S.C. 2, 9.

SOURCE: The provisions of this Part 2 appear at 25 F.R. 9106, Sept. 22, 1960, unless otherwise noted.

Subpart A—General

§ 2.1 Definitions.

As used in this part:

(a) "Person" includes any Indian or non-Indian individual, corporation, tribe, or other organization.

(b) "Interested party" means any person whose interests would be adversely affected by proceedings conducted under this part.

(c) "Petitioner" means any person who files an appeal under this part.

(d) "Appeal" means a written request for correction of an action or decision claimed to violate a person's legal rights or privileges.

(e) "Complaint" means a written request for correction or reconsideration of an action or decision claimed to be legally or administratively incorrect but not violative of the complainant's own legal rights or privileges.

(f) "Right" means a favorable position in a legal relationship, the continued enjoyment of which may not be withdrawn save by a change in fundamental constitutional law.

(g) "Privilege" means a favorable position in a legal relationship, the continued enjoyment of which may be withdrawn only upon a change in law, statute or regulations upon which the relationship is based.

§ 2.2 Applicability.

This part provides appeals procedures for requesting correction of actions or decisions by officials of the Bureau of Indian Affairs where the action or decision is protested as a violation of a right or privilege of the appellant. Such rights or privileges must be based upon fundamental constitutional law, applicable Federal statutes, treaties, or upon Departmental regulations. Such regula-

tions appear in the FEDERAL REGISTER and, where of general application in Indian affairs, in Title 25 of the Code of Federal Regulations. "Appeals" shall be processed in accordance with the regulations in this part. "Complaints," on the other hand, may be either informally or formally made and ordinarily first presented to the office immediately responsible for the action or decison questioned and thereafter if necessary to higher officials. An action or decision which is subject to appeal shall be reduced to writing by the official making the decision either at his own instance or upon request of the petitioner. The appeal procedures in this part do not apply to decisions made under statutes or other regulations which provide specific appeals procedures, nor to "complaints."

§ 2.3 Who may appeal.

In accordance with the procedures in this part, any interested party adversely affected by a decision of an official under the supervision of an Area Director of the Bureau of Indian Affairs may appeal to the Area Director; an appeal may be taken to the Commissioner of Indian Affairs from a decision of the Area Director; and an appeal may be taken to the Secretary of the Interior from a decision of the Commissioner.

§ 2.4 Notice of administrative action.

Notice shall be given of any action taken or decision made from which an appeal may be taken under the regulations in this part, to any Indian or Indian tribe whose legal rights or privileges are affected thereby. This notice shall be in writing and shall be given by the official making the decision or taking the action. Failure to give such notice shall not affect the validity of the action or decision, but the right to appeal therefrom shall continue under the regulations in this part for the periods hereinafter set forth.

Subpart B—Appeals to the Area Director or to the Commissioner

§ 2.10 Appeal, how taken; time limit.

(a) An interested party who wishes to appeal to the Area Director or Commissioner shall initiate his appeal by filing a written petition with the official who made the decision. Such official if requested by an Indian or Indian tribe shall render such assistance as is appropriate in the preparation of any appeal by an Indian or Indian tribe. The petition should give an identification of the case a statement of reasons for the appeal and any arguments the petitioner wishes to make. The petition must be received in such office within 20 days after the date of the mailing of the notice of the decision complained of to the petitioner unless further time is granted pursuant to the regulations in this part. The petitioner also may file an additional written statement of reasons and arguments or briefs with the Area Director or the Commissioner within 10 days after the filing of the petition.

(b) Whether or not the decision complained of will be suspended during the appeal will be within the discretion of the officer to whom the appeal is made. He may require an adequate bond to protect the interest of any Indian, Indian tribe, or other parties involved.

§ 2.11 Service of petition and of other documents.

(a) The petitioner, or the officer with whom the petition is filed when the petitioner is an Indian or Indian tribe not represented by counsel, shall serve a copy of the petition and of any additional written statement of reasons, arguments, or briefs on each interested party known to him as such, in the manner prescribed in § 2.33, at the time of filing thereof. Failure to serve within the time required may subject the appeal to summary dismissal as provided in § 2.36. Proof of such service as required by § 2.33 must be filed with the Area Director or Commissioner within 15 days after service unless filed with the petition or with the additional statement of reasons, arguments or briefs.

§ 2.12 Answers.

If any party served with a petition wishes to participate in the proceeding on appeal, he must file a written answer within 20 days after service of the petition upon him. If an additional statement of reasons is filed by the petitioner, the interested party shall have 10 days after service thereof within which to answer. Answers must be filed with the Area Director, the Commissioner, or other Bureau employee with copy to the Commissioner, whichever is appropriate, and be served on the petitioner in the manner prescribed in § 2.33 at the time the answer is filed. Proof of such service, as required by § 2.33, must be filed

with the Area Director or the Commissioner within 15 days after service. If an answer is not filed within the time required, a default will not result but the answer may be disregarded in deciding the appeal.

§ 2.13 Action by Area Director or Commissioner on appeal.

The Commissioner or the Area Director will render a written decision in each case appealed to him, copies of which will be mailed to all interested parties.

§ 2.14 Effect of failure to appeal.

When any party fails to appeal a decision of the Superintendent, Area Director, or the Commissioner, that decision shall be final as to such party and will not be disturbed except for fraud or gross irregularity, or where it is found by higher authority that the failure to appeal on the part of an Indian or Indian tribe would result in an inequity or injustice to the Indian or Indian tribe.

Subpart C—Appeals to the Secretary

§ 2.21 Right of appeal to the Secretary.

Any party adversely affected may file an appeal from a decision of the Commissioner to the Secretary except a decision which received the Secretary's approval at the time it was made.

§ 2.22 Appeal, how taken; time limit.

(a) An interested party who wishes to file an appeal from a decision of the Commissioner to the Secretary must file a written petition with the Commissioner that he wishes to appeal. The petition must give an identification of the case, a statement of the reasons for the appeal and any arguments the petitioner wishes to make. The petition must be received in such office within 20 days after the date of the mailing of the notice of the decision complained of to the petitioner. The petitioner also may file an additional statement of reasons, arguments, or briefs with the Commissioner or Secretary within 10 days after the filing of the petition.

(b) Whether or not the decision complained of will be suspended during the appeal will be within the discretion of the Secretary He may require an adequate bond to protect the interest of any Indian, Indian tribe, or other parties involved.

§ 2.23 Service of petition and of other documents.

The petitioner, or the Commissioner when the petitioner is an Indian or Indian tribe not represented by counsel, shall serve a copy of the petition and any accompanying written statement of reasons, arguments or briefs on each interested party known to him as such, in the manner prescribed in § 2.33 at the time of filing the petition and at the time of filing any additional statement of reasons, arguments or briefs. Failure to serve within the time required may subject the appeal to summary dismissal as provided in § 2.36. Proof of such service as required by § 2.33 must be filed with the Secretary within 15 days after service unless filed with the petition or with the additional statement of reasons, arguments or briefs.

§ 2.24 Answers.

If a party served with a petition wishes to participate in the proceeding on appeal, he must file a written answer within 20 days after service of the petition upon him. If an additional statement of reasons is filed by the petitioner, the interested party shall have 10 days after service thereof within which to answer. Answers must be filed with the Secretary and be served on the petitioner in the manner prescribed in § 2.33 at the time the answer is filed. Proof of such service as required by § 2.33 must be filed with the Secretary within 15 days after service. If an answer is not filed within the time required, default will not result but the answer may be disregarded in deciding the appeal.

§ 2.25 Finality of decision.

No further right of appeal or request for reconsideration exists within the Department of the Interior from a decision of a Secretarial Officer, except when he finds as a matter of discretion that reconsideration should be had in order to avoid injustice and such decision shall constitute the final administrative action. Copies of such decision will be mailed to all interested parties.

Subpart D—Procedures

§ 2.31 When a document is filed.

A document is properly filed when received in the office of the official with whom the filing is required during regular office hours. No degree of formality is required, a simple letter will suffice

and the appellant need not be represented by counsel. An appeal by an Indian or Indian tribe received in an office other than that to which it should be properly addressed shall be transmitted to the proper office and the appellant advised. If such office is unknown where received, it shall be returned to the writer.

§ 2.32 Record address.

Every interested party who files a document in connection with an appeal shall state his address at the time of initial filing in the matter. Thereafter, he must promptly inform the official with whom the filing was made of any change in address, giving appropriate identification of all matters in which he has made such a filing; otherwise, the address as stated shall be accepted as the proper address. The successors of such party shall likewise promptly inform the official of their interest in the matter and state their addresses. If an interested party fails to furnish his address as required in this section, he will not be entitled to notice in connection with the proceedings.

§ 2.33 Service.

(a) Wherever this regulation requires that a copy of a document be served, service shall be made by delivering the copy personally or by sending the document by registered or certified mail, return receipt requested, to the address of record as required in § 2.32. Where a tribe is an interested party, service shall be made on the authorized tribal official or tribal governing body. Notice of a decision is sufficient if mailed by regular mail.

(b) A document will be considered to have been served at the time (1) of acknowledgment, (2) of personal service, (3) of delivery of a registered or certified letter, or (4) of the return by the post office of an undelivered registered or certified letter.

(c) In all cases where a party is represented by an attorney, such attorney will be recognized as fully controlling the same on behalf of his client, and service of any document relating to the proceeding upon such attorney shall be deemed to be service on the party he represents. Where a party is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

§ 2.34 Computation of time for filing and service.

In computing any period of time prescribed herein for filing or serving a document, the day upon which the decision or document to be appealed or answered was mailed or served, or the day of any other event after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included unless it falls upon a Saturday, Sunday, or legal holiday.

§ 2.35 Extensions of time.

The period for filing or serving any document may be extended or waived on behalf of an interested party by the officer to whom the appeal is taken, for good cause found by the officer. The Secretary in his discretion may extend or waive any time limitation established by these regulations.

§ 2.36 Summary dismissal.

An appeal to the Area Director, Commissioner or the Secretary may be subject to summary dismissal by the officer to whom it is made for any of the following causes:

(a) If a statement of the reasons for the appeal is not included in the petition.

(b) If the petition or additional statement of reasons in support of the appeal are not received or not served upon the interested parties within the time required.

(c) If proof of service of any document is not filed within the time required.

No appeal shall be dismissed because of a procedural error or informality which is satisfactorily explained as being the result of ignorance, mistake, or circumstances beyond the control of the appellant.

§ 2.37 Scope of review.

When a matter is before an official of the Bureau of Indian Affairs or higher echelon of the Department of the Interior on appeal, any information available to the reviewing officer may be used

whether formally part of the record, if any, or not, but where reliance is placed on information not of record such information shall be identified as to source and nature.

PART 5—RESERVATION ACCELERATION PROGRAM (RAP)

Sec.
5.1 Purpose.
5.2 Applicant eligibility.
5.3 Application submission and acceptance.
5.4 Implementation procedures.

AUTHORITY: The provisions of this Part 5 issued under 5 U.S.C. 301.

SOURCE: 37 F.R. 23262, Nov. 11, 1972, unless otherwise noted.

§ 5.1 Purpose.

The regulations in this part govern the procedures by which Indian or Native Alaska communities may negotiate with the Bureau of Indian Affairs to restructure the Bureau's programs.

§ 5.2 Applicant eligibility.

Applicant must be an Indian or Native Alaska community currently receiving services from the Bureau of Indian Affairs or an intertribal organization representing a group of such communities.

§ 5.3 Application submission and acceptance.

(a) The governing body of the community or the intertribal organization making application must support participation in the Reservation Acceleration Program by a formal resolution. The resolution requesting participation in the program may be submitted at any time to the Commissioner of Indian Affairs.

(b) If the applicant is a community or communities served by a single Bureau of Indian Affairs Agency which serves no other communities, the Commissioner of Indian Affairs will, within 30 days after the date the application is received, inform the applicant of the date when negotiations may begin. In other cases, the Commissioner will direct members of his staff to meet with the applicant to develop special procedures that are acceptable both to the Commissioner and to the applicant. As soon as such procedures are accepted, a date for the start of negotiations will be announced.

§ 5.4 Implementation procedures.

(a) Leaders of communities selected to participate in the program will meet with the staff of the Bureau of Indian Affairs Agency that serves their communities to familiarize themselves with all aspects of the current Bureau program in their locality. The governing body will then prepare recommendations for changes in the Bureau program that it feels will support the comprehensive development plans of the community. These recommendations will be discussed with the Agency staff to determine if the Superintendent has the authority to implement them. When agreement is reached on those recommendations which are within the Superintendent's authority, he will implement them providing the changes proposed will not adversely affect services to other communities. All RAP recommendations will be forwarded to the area office.

(b) The same procedures described for negotiations at the Agency level will also apply at the area office level. In addition, when a community indicates it would be willing to exchange Bureau funds or staff in a single activity for funds or staff of another activity, the Area Director will be responsible for contacting other communities within his service area to inform them of the offer. When such an exchange is agreed to by all parties, the Area Director will implement it. Other recommendations that are within his authority and on which agreement is reached will also be implemented immediately by the Area Director.

(c) All RAP recommendations will then be forwarded to the Central Office where the negotiation process will be repeated. The Commissioner will be responsible for contacting other area offices to facilitate program exchanges that could not be made within a single area.

(d) Upon completion of the Central Office negotiations, the agreement will be signed by the tribal leader, the Superintendent, the Area Director and the Commissioner of Indian Affairs.

(e) The Area Director will be responsible for making any changes in the staffing or program of the area office that are necessary to implement the agreement.

e selection of each selectee shall be de within five days from the date of notification. Otherwise, the order of eference obtained in the drawing will forfeited and his selection may not be de prior to the selection of the holder the next highest number in the draw-, unless, due to circumstances beyond control, he is unable to appear. If selection is not made before the der of the second highest number to has made his selection, then his mber shall be placed next in line. In event he again fails to make a selec-n for himself or a member of his nily, the Area Director or his author-l representative shall make such se-tions as may be necessary in order t the selection process may not be luly delayed and that the schedule of otments may be closed.

30.10 Disposition of improvements.

Any member owning improvements on d selected properly by another mem-may remove, or otherwise dispose of improvements, within a 60-day pe-l from the date of notification by the a Director to such member to dis-e of such improvements. If in any e the whereabouts of the owner of improvements is not immediately own, an additional reasonable time y be allowed by the Area Director in which to locate the owner so that he, or his duly appointed representative, may have an opportunity to remove or dispose of such improvements.

§ 130.11 Submittal of allotment schedule.

Upon the completion of the allotment selections, a certified allotment schedule containing the names of the allottees, the legal descriptions of their selections and other pertinent information, shall be prepared by the Area Director. The allotment schedule shall be submitted to the Secretary of the Interior, through the Commissioner of Indian Affairs, for approval.

§ 130.12 Issuance of trust patents.

With the request for approval of the allotment schedule, the Area Director shall also request the Secretary of the Interior to authorize the Director, Bureau of Land Management to issue trust patents for each of the selections in accordance with the act of January 12, 1891 (26 Stat. 712), as amended by the act of March 2, 1917 (39 Stat. 969, 976).

§ 130.13 Special instructions.

To facilitate the work of the Area Director, the Commissioner, Bureau of Indian Affairs, may issue special instructions consistent with the rules and regulations in this part.

SUBCHAPTER L—LEASING AND PERMITTING

PART 131—LEASING AND PERMITTING

AUTHORITY: The provisions of this part 131 issued under 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2 and 9. Interpret or apply sec. 3, 26 Stat. 795, sec. 1, 28 Stat. 305, secs. 1, 2, 31 Stat. 229, 246, secs. 7, 12, 34 Stat. 545, 34 Stat. 1015, 1034, 35 Stat. 70, 95, 97, sec. 4, 36 Stat. 856, sec. 1, 39 Stat. 128, 41 Stat. 415, as amended, 751, 1232, sec. 17, 43 Stat. 636, 641, 44 Stat. 658, as amended, 894, 1365, as amended, 47 Stat. 1417, sec. 17, 48 Stat. 984, 988, 49 Stat. 115, 1135, sec. 55, 49 Stat. 781, sec. 3, 49 Stat. 1967, 54 Stat. 745, 1057, 60 Stat. 308, secs. 1, 2, 60 Stat. 962, sec. 5, 64 Stat. 46, secs. 1, 2, 4, 5, 6, 64 Stat. 470, 69 Stat. 539, 540, 72 Stat. 968; 25 U.S.C. 380, 393, 393a, 394, 395, 397, 402, 402a, 403, 403a, 403b, 403c, 413, 415, 415a, 415b, 415c, 415d, 477, 635.

SOURCE: The provisions of this Part 131 appear at 26 F.R. 10966, Nov. 23, 1961, unless otherwise noted.

§ 131.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative acting under delegated authority.

(b) "Individually owned land" means land or any interest therein held in trust by the United States for the benefit of individual Indians and land or any interest therein held by individual Indians subject to Federal restrictions against alienation or encumbrance.

(c) "Tribal land" means land or any interest therein held by the United States in trust for a tribe, band, community, group or pueblo of Indians, and land that is held by a tribe, band, community, group or pueblo of Indians subject to Federal restrictions against alienation or encumbrance, and includes such land reserved for Indian Bureau administrative purposes when it is not immediately needed for such purposes. The term also includes lands held by the United States in trust for an Indian corporation chartered under section 17 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476). This term also includes assignments of tribal land. Unless the terms of the assignment provide for the leasing of the land by the holder of the assignment, the tribe must join with the assignee in the grant of a lease.

(d) "Government land" means land, other than tribal land, acquired or reserved by the United States for Indian Bureau administrative purposes which are not immediately needed for the purposes for which they were acquired or reserved and land transferred to or placed under the jurisdiction of the Bureau of Indian Affairs.

(e) "Permit" means a privilege revocable at will in the discretion of the Secretary and not assignable, to enter on and use a specified tract of land for a specified purpose. The terms "lease", "lessor", and "lessee", when used in this part include, when applicable, "permit" "permittee", and "permittee", respectively

§ 131.2 Grants of leases by Secretary.

(a) The Secretary may grant leases on individually owned land on behalf of: (1) Persons who are non compos mentis; (2) orphaned minors; (3) the undetermined heirs of a decedent's estate; (4) the heirs or devisees to individually owned land who have not been able to agree upon a lease during the three-month period immediately following the date on which a lease may be entered into; provided, that the land is not in use by any of the heirs or devisees; and (5) Indians who have given the Secretary written authority to execute leases on their behalf.

(b) The Secretary may grant leases on the individually owned land of an adult Indian whose whereabouts is unknown, on such terms as are necessary to protect and preserve such property.

(c) The Secretary may grant permits on Government land.

§ 131.3 Grants of leases by owners or their representatives.

The following may grant leases: (1) Adults, other than those non compos mentis, (2) adults other than those non compos mentis, on behalf of their minor children, and on behalf of minor children to whom they stand in loco parentis when such children do not have a legal representative, (3) the guardian, conservator or other fiduciary, appointed by a state court or by a tribal court operating under an approved constitution or law and order code, of a minor or persons who are non compos mentis or are otherwise under legal disability, (4) tribes or tribal corporations acting through their appropriate officials.

§ 131.4 Use of land of minors.

The natural or legal guardian, or other person standing in loco parentis of minor children who have the care and custody of such children may use the individually owned land of such children during the period of minority without charge for the use of the land if such use will enable such person to engage in a business or other enterprise which will be beneficial to such minor children.

§ 131.5 Special requirements and provisions.

(a) All leases made pursuant to the regulations in this part shall be in the form approved by the Secretary and subject to his written approval.

(b) Except as otherwise provided in this part no lease shall be approved or granted at less than the present fair annual rental.

(1) An adult Indian owner of trust or restricted land may lease his land for religious, educational, recreational or other public purposes to religious organizations or to agencies of the Federal, State or local government at a nominal rental. Such adult Indian may lease land to members of his immediate family with or without rental consideration. For purposes of this section, "immediate family" is defined as the Indian's spouse, brothers, sisters, lineal ancestors, or descendants.

(2) In the discretion of the Secretary, tribal land may be leased at a nominal rental for religious, educational, recreational, or other public purposes to religious organizations or to agencies of Federal, State, or local governments; for purposes of subsidization for the benefit of the tribe; and for homesite purposes to tribal members provided the land is not commercial or industrial in character.

(3) Leases may be granted or approved by the Secretary at less than the fair annual rental when in his judgment such action would be in the best interest of the landowners.

(c) Unless otherwise provided by the Secretary a satisfactory surety bond will be required in an amount that will reasonably assure performance of the contractual obligations under the lease. Such bond may be for the purpose of guaranteeing:

(1) Not less than one year's rental unless the lease contract provides that the annual rental shall be paid in advance.

(2) The estimated construction cost of any improvement to be placed on the land by the lessee.

(3) An amount estimated to be adequate to insure compliance with any additional contractual obligations.

(d) The leasee may be required to provide insurance in an amount adequate to protect any improvements on the leased premises, the lessee may also be required to furnish appropriate liability insurance, and such other insurance as may be necessary to protect the lessor's interest.

(e) No lease shall provide the lessee a preference right to future leases nor shall any lease contain provisions for renewal, except as otherwise provided in this part. No lease shall be entered into more than 12 months prior to the commencement of the term of the lease. Except with the approval of the Secretary no lease shall provide for payment of rent in advance of the beginning of the annual use period for which such rent is paid. The lease contract shall contain provisions as to the dates rents shall become due and payable.

(f) Leases granted or approved under this part shall contain provisions as to whether payment of rentals is to be made direct to the owner of the land or his representative or to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

(g) All leases issued under this part shall contain the following provisions:

(1) While the leased premises are in trust or restricted status, all of the lessee's obligations under this lease, and the obligations of his sureties, are to the United States as well as to the owner of the land.

(2) Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the lessee and his surety or sureties shall be notified of any such change in the status of the land.

(3) The lessee agrees that he will not use or cause to be used any part of the leased premises for any unlawful conduct or purpose.

(h) Leases granted or approved under this part on individually owned lands which provide for payment of rental direct to the owner or his representative shall contain the following provisions:

(1) In the event of the death of the owner during the term of this lease and while the leased premises are in trust or restricted status, all rentals remaining due or payable to the decedent or his representative under the provisions of the lease shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

(2) While the leased premises are in trust or restricted status, the Secretary may in his discretion suspend the direct rental payment provisions of this lease in which event the rentals shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises.

§ 131.6 Negotiation of leases.

(a) Leases of individually owned land or tribal land may be negotiated by those owners or their representatives who may execute leases pursuant to § 131.3.

(b) Where the owners of a majority interest, or their representatives, who may grant leases under § 131.3, have negotiated a lease satisfactory to the Secretary he may join in the execution of the lease and thereby commit the interests of those persons in whose behalf he is authorized to grant leases under § 131.2 (a) (1), (2), (3), and (5).

(c) Where the Secretary may grant leases under § 131.2 he may negotiate leases when in his judgment the fair annual rental can thus be obtained.

§ 131.7 Advertisement.

Except as otherwise provided in this part, prior to granting a lease or permit as authorized under § 131.2 the Secretary shall advertise the land for lease. Advertisments will call for sealed bids and will not offer preference rights.

§ 131.8 Duration of leases.

Leases granted or approved under this part shall be limited to the minimum duration, commensurate with the purpose of the lease, that will allow the highest economic return to the owner consistent with prudent management and conservation practices, and except as otherwise provided in this part shall not exceed the number of years provided for in this section. Except for those leases authorized by § 131.5(b) (1) and (2), unless the consideration for the lease is based primarily on percentages of income produced by the land, the lease shall provide for periodic review, at not less than five-year intervals, of the equities involved. Such review shall give consideration to the economic conditions at the time, exclusive of improvement or development required by the contract or the contribution value of such improvements. Any adjustments of rental resulting from such review may be made by the Secretary where he has the authority to grant leases, otherwise the adjustment must be made with the written concurrence of the owners and the approval of the Secretary.

(a) Leases for public, religious, educational, recreational, residential, or business purposes shall not exceed 25 years but may include provisions authorizing a renewal or an extension for one additional term of not to exceed 25 years, except such leases of land on the Hollywood (formerly Dania) Reservation, Fla.; the Navajo Reservation, Ariz., N. Mex., and Utah; the Palm Springs Reservation, Calif.; the Southern Ute Reservation, Colo.; the Fort Mohave Reservation, Calif., Ariz., and Nev.; the Pyramid Lake Reservation, Nev.; the Gila River Reservation, Ariz.; the San Carlos Apache Reservation, Ariz.; the Spokane Reservation, Wash.; the Hualapai Reservation, Ariz.; the Swinomish Reservation, Wash.; the Pueblos of Cochiti, Pojoaque, Tesuque, and Zuni, N. Mex.; and land on the Colorado River Reservation, Ariz., and Calif., as stated in § 131.18, which leases may be made for terms of not to exceed 99 years.

(b) Leases may be made for 25 years for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops. To determine whether a long term lease is justified, it is necessary to give consideration to the nature of the crop to be grown, including the feasibility of growing the proposed crop. The amount of substantially of the investment, as well as the necessity of such an investment in order to grow the proposed crop, are also elements to consider in evaluating the term of the proposed lease.

(c) Farming leases not granted for the purpose of growing specialized crops shall not exceed five years for dry-farming land or ten years for irrigable land.

(d) Grazing leases which require substantial development or improvement of the land shall not exceed ten years.

(e) Leases granted by the Secretary pursuant to § 131.2(a)(3) shall be for a term of not to exceed two years except as otherwise provided in § 131.6(b).

[26 FR 10906, Nov. 28, 1961, as amended at 29 FR 2542, Feb. 16, 1964, 54 FR 6336, Mar. 1, 1989]

§ 131.9 Ownership of improvements.

Improvements placed on the leased land shall become the property of the lessor unless specifically excepted therefrom under the terms of the lease. The lease shall specify the maximum time allowed for removal of any improvements so excepted.

§ 131.10 Unitization for leasing.

Where it appears advantageous to the owners and advantageous to the opera-

tion of the land a single lease contract may include more than one parcel of land in separate ownerships, tribal or individual, provided the statutory authorities and other applicable requirements of this part are observed.

§ 131.11 Conservation and land use requirement.

Farming and grazing operations conducted under leases granted or approved under this part shall be conducted in accordance with recognized principles of good practice and prudent management. Land use stipulations or conservation plans necessary to define such use shall be incorporated in and made a part of the lease.

§ 131.12 Subleases and assignments.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, a sublease, assignment, amendment or encumbrance of any lease or permit issued under this part may be made only with the approval of the Secretary and the written consent of all parties to such lease or permit, including the surety or sureties.

(b) With the consent of the Secretary, the lease may contain a provision authorizing the lessee to sublease the premises, in whole or in part, without further approval. Subleases so made shall not serve to relieve the sublessor from any liability nor diminish any supervisory authority of the Secretary provided for under the approved lease.

(c) With the consent of the Secretary, the lease may contain provisions authorizing the lessee to encumber his leasehold interest in the premises for the purpose of borrowing capital for the development and improvement of the leased premises. The encumbrance instrument, must be approved by the Secretary. If a sale or foreclosure under the approved encumbrance occurs and the encumbrancer is the purchaser, he may assign the leasehold without the approval of the Secretary or the consent of the other parties to the lease, provided, however, that the assignee accepts and agrees in writing to be bound by all the terms and conditions of the lease. If the purchaser is a party other than the encumbrancer, approval by the Secretary of any assignment will be required and such purchaser will be bound by the terms of the lease and will assume in writing all the obligations thereunder.

(d) With the consent of the Secretary, leases of tribal land to individual members of the tribe or to tribal housing authorities may contain provisions permitting the assignment of the lease without further consent or approval where a lending institution or an agency of the United States makes, insures or guarantees a loan to an individual member of the tribe or to a tribal housing authority for the purpose of providing funds for the construction of housing for Indians on the leased premises; provided, the leasehold has been pledged as security for the loan and the lender has obtained the leasehold by foreclosure or otherwise. Such leases may with the consent of the Secretary also contain provisions permitting the lessee to assign the lease without further consent or approval.

[26 F.R. 10068, Nov. 23, 1961, as amended at 29 F.R. 2542, Feb. 18, 1964]

§ 131.13 Payment of fees and drainage and irrigation charges.

(a) Except as provided in Part 221 of this chapter, any lease covering lands within an irrigation project or drainage district shall require the lessee to pay annually on or before the due date, during the term of the lease and in the amounts determined, all charges assessed against such lands. Such charges shall be in addition to the rental payments prescribed in the lease. All payments of such charges and penalties shall be made to the official designated in the lease to receive such payments.

(b) Unless otherwise provided in this part or by the Secretary, fees based upon the annual rental payable under the lease shall be collected on each lease, sublease, assignment, transfer, renewal, extension, modification, or other instrument issued in connection with the leasing or permitting of restricted lands under the regulations in this part.

(1) Except where all or any part of the expenses of the work are paid from tribal funds, in which event an additional or alternate schedule of fees may be established subject to the approval of the Secretary, the fee to be paid shall be as follows:

Rental	*Percent*
On the first $500	3
On the next $4,500	2
On all rental above $5,000	1

In no event shall the fee be less than $2.00 nor exceed $250.

(2) In the case of percentage rental leases, the fee shall be calculated on the basis of the guaranteed minimum rental. Where rental consists of a stated annual cash rental in addition to a percentage rental, the estimated revenue anticipated from the percentage rental shall be mutually agreed upon solely for the purpose of fixing the fee. The fee to be collected in case of crop-share or other special consideration leases or permits shall be based on an estimate of the cash rental value of the acreage, or the estimated value of the lessor's share of the crops. No fees so collected shall be refunded.

§ 131.14 Violation of lease.

Upon a showing satisfactory to the Secretary that there has been a violation of the lease or the regulations in this part, the lessee shall be served with written notice setting forth in detail the nature of the alleged violation and allowing him ten days from the date of receipt of notice in which to show cause why the lease should not be cancelled. The surety or sureties shall be sent a copy of each such notice. If within the ten-day period, it is determined that the breach may be corrected and the lessee agrees to take the necessary corrective measures, he will be given an opportunity to carry out such measures and shall be given a reasonable time within which to take corrective action to cure the breach. If the lessee fails within such reasonable time to correct the breach or to furnish satisfactory reasons why the lease should not be cancelled, the lessee shall forthwith be notified in writing of the cancellation of the lease and demands shall be made for payment of all obligations and for possession of the premises. The notice of cancellation shall inform the lessee of his right to appeal pursuant to Part 2 of this chapter. Where breach of contract can be satisfied by the payment of damages, the Secretary may approve the damage settlement between the parties to the lease, or where the Secretary has granted the lease, he may accept the damage settlement. With the consent of the Secretary, leases of tribal land to individual members of the tribe or to tribal housing authorities for the purpose of providing lands on which housing for Indians is to be constructed, may contain a provision prohibiting the cancellation or termination of the lease during the period that a loan, loan insurance, or loan guarantee is in effect without the approval of the lender or the agency of the United States which has made, insured or guaranteed the loan for the construction of housing on the leased premises.

[29 F.R. 2542, Feb. 18, 1964]

§ 131.15 Crow Reservation.

(a) Notwithstanding the regulations in other sections of this Part 131, Crow Indians classified as competent under the Act of June 4, 1920 (41 Stat. 751), as amended, may lease their trust lands and the trust lands of their minor children for farming or grazing purposes without the approval of the Secretary pursuant to the Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80). However, at their election Crow Indians classified as competent may authorize the Secretary to lease, or assist in the leasing of such lands, and an appropriate notice of such action shall be made a matter of record. When this prerogative is exercised, the general regulations contained in this Part 131 shall be applicable. Approval of the Secretary is required on leases signed by Crow Indians not classified as competent or made on inherited or devised trust lands owned by more than five competent devisees or heirs.

(b) The Act of May 26, 1926 (44 Stat. 658), as amended by the Act of March 15, 1948 (62 Stat. 80), provides that no lease for farming or grazing purposes shall be made for a period longer than five years, except irrigable lands under the Big Horn Canal, which may be leased for periods of ten years. No such lease shall provide the lessee a preference right to future leases which, if exercised, would thereby extend the total period of encumbrance beyond the five or ten years authorized by law.

(c) All leases entered into by Crow Indians classified as competent, under the above-described special statutes, must be recorded at the Crow Agency. Such recording shall constitute notice to all persons. Under the special statutes, Crow Indians classified as competent are free to lease their property within certain limitations. The five-year (ten-year in the case of lands under the Big Horn Canal) limitation is intended to afford a protection to the Indians. The essence of this protection is the right to deal with the property free, clear, and unencumbered at intervals at least as frequent as those provided by law. If lessees are able to obtain new leases long before the termination of existing leases,

they are in a position to set their own terms. In these circumstances lessees could perpetuate their leaseholds and the protection of the statutory limitations as to terms would be destroyed. Therefore, in implementation of the foregoing interpretation, any lease which, on its face, is in violation of statutory limitations or requirements, and any grazing lease executed more than 12 months, and any farming lease executed more than 18 months, prior to the commencement of the term thereof or any lease which purports to cancel an existing lease with the same lessee as of a future date and take effect upon such cancellation will not be recorded. Under a Crow tribal program, approved by the Department of the Interior, competent Crow Indians may, under certain circumstances, enter into agreements which require that, for a specified term, their leases be approved. Information concerning whether a competent Crow Indian has executed such an instrument is available at the office of the Superintendent of the Crow Agency, Bureau of Indian Affairs, Crow Agency, Montana. Any lease entered into with a competent Crow Indian during the time such instrument is in effect and which is not in accordance with such instrument will be returned without recordation.

(d) Where any of the following conditions are found to exist, leases will be recorded but the lessee and lessor will be notified upon discovery of the condition: (1) The lease in single or counterpart form has not been executed by all owners of the land described in the lease, (2) there is, of record, a lease on the land for all or a part of the same term, (3) the lease does not contain stipulations requiring sound land utilization plans and conservation practices, or (4) there are other deficiencies such as, but not limited to, erroneous land descriptions, and alterations which are not clearly endorsed by the lessor.

(e) Any adult Crow Indian classified as competent shall have the full responsibility for obtaining compliance with the terms of any lease made by him pursuant to this section. This shall not preclude action by the Secretary to assure conservation and protection of these trust lands.

(f) Leases made by competent Crow Indians shall be subject to the right to issue permits and leases to prospect for, develop, and mine oil, gas, and other minerals, and to grant rights-of-way and easements, in accordance with applicable law and regulations. In the issuance or granting of such permits, leases, rights-of-way or easements due consideration will be given to the interests of lessees and to the adjustment of any damages to such interests. In the event of a dispute as to the amount of such damage, the matter will be referred to the Secretary whose determination will be final as to the amount of said damage.

[29 F.R. 473, Jan. 18, 1964]

§ 131.16 Fort Belknap Reservation.

Not to exceed 20,000 acres of allotted and tribal lands (nonirrigable as well as irrigable) on the Fort Belknap Reservation in Montana may be leased for the culture of sugar beets and other crops in rotation for terms not exceeding 10 years.

§ 131.17 Cabazon, Augustine, and Torres-Martinez Reservations, California.

(a) Upon a determination by the Secretary that the owner or owners are not making beneficial use thereof, restricted lands on the Cabazon, Augustine, and Torres-Martinez Indian Reservations which are or may be irrigated from distribution facilities administered by the Coachella Valley County Water District in Riverside County, California, may be leased by the Secretary in accordance with the regulations in this part for the benefit of the owner or owners.

(b) All leases granted or approved on restricted lands of the Cabazon, Augustine, and Torres-Martinez Indian Reservations shall be filed for record in the office of the country recorder of the county in which the land is located, the cost thereof to be paid by the lessee. A copy of each such lease shall be filed by the lessee with the Coachella Valley County Water District or such other irrigation or water district within which the leased lands are located. All such leases shall include a provision that the lessee, in addition to the rentals provided for in the lease, shall pay all irrigation charges properly assessed against the land which became payable during the term of the lease. Act of August 25, 1950 (64 Stat. 470); Act of August 28, 1958 (72 Stat. 968).

§ 131.18 Colorado River Reservation.

The Act of April 30, 1964 (78 Stat. 188), fixed the beneficial ownership of the Colorado River Reservation in the Colorado River Indian Tribes of the Colorado River Reservation and authorized the Secretary of the Interior to approve leases of said lands for such uses and terms as are authorized by the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415, et seq.), including the same uses and terms as are permitted thereby on the Agua Caliente (Palm Springs), Dania, Navajo, and Southern Ute Reservations. Regulations in this Part 131 govern leasing under the Act of August 9, 1955. Therefore, Part 131 shall also govern the leasing of lands on the Colorado River Reservation: *Provided, however,* That application of this Part 131 shall not extend to any lands lying west of the present course of the Colorado River and south of sec. 12 of T. 5 S., R. 23 E., San Bernardino base and meridian in California and shall not be construed to affect the resolution of any controversy over the location of the boundary of the Colorado River Reservation; *Provided further,* That any of the described lands in California shall be subject to the provisions of this Part 131 when and if determined to be within the reservation.

[30 F.R. 14156, Nov. 10, 1965, as amended by 35 F.R. 18051, Nov. 25, 1970]

§ 131.19 Grazing units excepted.

Tribal or individually owned lands within range units established pursuant to Part 151 of this chapter, general grazing regulations, shall not be leased and permits respecting such lands shall not be issued under this part.

§ 131.20 San Xavier and Salt River Pima-Maricopa Reservations.

(a) *Purpose and scope.* The Act of November 2, 1966 (80 Stat. 1112), provides statutory authority for long-term leasing on the San Xavier and Salt River Pima-Maricopa Reservations, Ariz., in addition to that contained in the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415). When leases are made under the 1955 Act on the San Xavier or Salt River Pima-Maricopa Reservations, the regulations in §§ 131.1 through 131.14 and in § 131.19 apply. The purpose of this § 131.20 is to provide regulations for implementation of the 1966 Act. The 1966 Act does not apply to leases made for purposes that are subject to the laws governing mining leases on Indian lands.

(b) *Duration of leases.* Leases made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes may be made for terms of not to exceed 99 years. The terms of a grazing lease shall not exceed 10 years; the term of a farming lease that does not require the making of a substantial investment in the improvement of the land shall not exceed 10 years; and the term of a farming lease that requires the making of a substantial investment in the improvement of the land shall not exceed 40 years. No lease shall contain an option to renew which extends the total term beyond the maximum term permitted by this section.

(c) *Required covenant and enforcement thereof.* Every lease under the 1966 Act shall contain a covenant on the part of the lessee that he will not commit or permit on the leased land any act that causes waste or a nuisance or which creates a hazard to health of persons or to property wherever such persons or property may be.

(d) *Notification regarding leasing proposals.* If the Secretary determines that a proposed lease to be made under the 1966 Act for public, religious, educational, recreational, residential, or business purposes will substantially affect the governmental interests of a municipality contiguous to the San Xavier Reservation or the Salt River Pima-Maricopa Reservation, as the case may be, he shall notify the appropriate authority of such municipality of the pendency of the proposed lease. The Secretary may, in his discretion, furnish such municipality with an outline of the major provisions of the lease which affect its governmental interests and shall consider any comments on the terms of the lease affecting the municipality or on the absence of such terms from the lease that the authorities may offer. The notice to the authorities of the municipality shall set forth a reasonable period, not to exceed 30 days, within which any such comments shall be submitted.

(e) *Applicability of other regulations.* The regulations of §§ 131.1 through 131.14 and in § 131.19 shall apply to leases made under the 1966 Act except where such regulations are inconsistent with this § 131.20.

(f) *Mission San Xavier del Bac.* Nothing in the 1966 Act authorizes development that would detract from the scenic, historic, and religious values of the Mission San Xavier del Bac owned

by the Franciscan Order of Friars Minor and located on the San Xavier Reservation.

[33 F.R. 14641, Oct. 1, 1968]

PART 132—PRESERVATION OF ANTIQUITIES

Sec.

AUTHORITY: The provisions of this Part 132 issued under secs. 3, 4, 34 Stat. 225, as amended; 16 U.S.C. 432.

SOURCE: The provisions of this Part 132 appear at 22 F.R. 10570, Dec. 24, 1957, unless otherwise noted.

CROSS REFERENCE: For uniform regulations issued by the Secretaries of the Interior, Agriculture, and Army pertaining to the preservation of antiquities, see Public Lands: Interior, 43 CFR Part 3.

§ 132.1 Penalty.

The appropriation, excavation, injury, or destruction of any historic or prehistoric ruin or monument, or any object of antiquity situated on lands owned or controlled by the Government of the United States, by any person or persons, without the permission of the Secretary of the department having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, subject such person or persons to be fined not to exceed $500 or imprisoned for not to exceed 90 days, or both.

§ 132.2 Permits.

The Departmental Consulting Archeologist may grant permits for the examination of ruins, the excavation of archeological sites, and the gathering of objects of antiquity on Indian tribal lands or on individually owned trust or restricted Indian lands. Permit application forms may be obtained from the Departmental Consulting Archeologist, National Park Service, Interior Building, Washington, D.C. 20240. Completed applications should be directed to the Departmental Consulting Archeologist who will grant permits to reputable museums, universities, colleges or other recognized scientific or educational institutions, or to their duly authorized agents, subject to the regulations in this Part and 43 CFR Part 3. Copies of these regulations will be attached to the permit. Permits may be granted only after obtaining the consent of the Indian landowners, who may impose special conditions for inclusion in the permit, and the concurrence of the Bureau of Indian Affairs official having immediate jurisdiction over the property. Said Bureau official should not permit any excavation or explorations except as granted to the holders of permits.

[38 FR 18547, July 12, 1973]

§ 132.3 Supervision.

Superintendents may at all times examine the permit of any person or institution claiming the privileges referred to, and may fully examine all work done under such permit.

§ 132.4 [Reserved]

§ 132.5 Restoration of land after work completed.

After the work is completed, institutions and persons receiving permits for excavation shall restore the lands upon which they have worked to their customary condition, to the satisfaction of the Indian owners and the Bureau of Indian Affairs official having immediate jurisdiction over said lands.

[38 FR 18548, July 12, 1973]

§ 132.6 Superintendents authorized to confiscate antiquities illegally obtained or possessed.

Superintendents or others in administrative charge of reservations are hereby directed and authorized to confiscate any antiquities that may have been illegally obtained or that may now be illegally in the possession of licensed Indian traders or others and to submit a report and description of the articles confiscated and request instructions as to their disposition.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16

§ 132.7 Notice to public.

Copies of the act of June 8, 1906 (34 Stat. 225), and the interdepartmental regulations of December 28, 1906 (43 CFR Part 3), shall be posted conspicuously at all agency offices where the need is justified, and warning notices posted on the reservations and at or near the ruins or other articles to be protected. All licensed traders shall be notified immediately that failure to cease traffic in antiquities will result in a revocation of their license.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.8 Report of violations.

Any and all violations of the regulations in this part should be reported to the Bureau of Indian Affairs immediately.

NOTE: This section prescribed to carry out provisions of 43 CFR 3.16.

§ 132.9 Report on objects of antiquity.

Superintendents shall from time to time inquire and report as to the existence, on or near their reservations, of ruins, and archaeological sites, historic or prehistoric ruins, or monument, historic landmarks and prehistoric structures, and other objects of antiquity.

SUBCHAPTER M—FORESTRY

PART 141—GENERAL FOREST REGULATIONS

Sec.

AUTHORITY: The provisions of this Part 141 issued under secs. 7, 8, 36 Stat. 857, 25 U.S.C. 406, 407; and sec. 6, 48 Stat. 986 25 U.S.C. 466; 47 Stat. 1417, 25 U.S.C. 413. § 141.23 issued under 5 U.S.C. 301, 25 U.S.C. 2, unless otherwise noted.

CROSS REFERENCES: For rights-of-way, see Part 161 of this chapter. For sale of forest products, Red Lake Indian Reservation, Minnesota, see Part 144 of this chapter. For sale of lumber and other forest products produced by Indian enterprises from other reservations, see Part 142 of this chapter. For wilderness and roadless areas, see Part 163 of this chapter. For law and order, see Part 11 of this chapter.

§ 141.1 Definitions.

As used in this part:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Indian forest lands" means lands held in trust by the United States for Indian tribes or individual Indians or owned by such tribes or individuals subject to restrictions against alienation, that are considered to be chiefly valuable for the production of forest crops, or on which it is considered that a forest cover should be maintained in order to protect watershed or other values. A formal inspection and land classification action is not required before applying the provisions of this Part 141 to the management of any particular tract of land.

(c) "Stumpage value" means the value of uncut timber as it stands in the woods.

(d) "Stumpage rate" means the stumpage value per thousand board feet or other unit of measure.

[24 F.R. 7870, Sept. 30, 1959, as amended at 27 F.R. 12929, Dec. 29, 1962]

§ 141.2 Scope.

The regulations in this part are applicable to all Indian forest lands except as this part may be superseded by special legislation.

[24 F.R. 7870, Sept. 30, 1959]

§ 141.3 Objectives.

(a) The following objectives are to be sought in the management of unallotted Indian forest lands in accordance with the principles of sustained yield:

(1) The preservation of such lands in a perpetually productive state by providing effective protection, by applying sound silvicultural and economic principles to the harvesting of the timber, and by making adequate provision for new forest growth as the timber is removed.

(2) The regulation of the cut in a manner which will insure method and