

AGRICULTURE ON ALLOTTED LANDS



Introduction

Place-based foodways developed over millennia by *Tribal Peoples across the nation uphold distinct cultures and relationships to land and food. These diverse foodways include plant cultivation, animal management, seasonal movement, trade, and more. In the Northwest, through intentional actions, Tribal ancestors sustained annual harvests of a multitude of plants, animals, and fungi such as camas, salmon, and morels. These relationships to food and land are carried on by many today, though are significantly altered under the constraints of land loss, water rights, high temperatures, and numerous other challenges often connected to settler colonialism.

In Indian Country, place-based foodways are being revived and adapted after years of U.S. policy dedicated to assimilating lands and people into Western agriculture. Tribal engagement with ancestral food tending, and the present-day integration of Western farming and ranching, are vital to the collective health of people and lands. To support this engagement, for Tribal farmers, Tribal lessors, and other land caretakers, this document provides an introduction to understanding agricultural leasing on allotted lands in Indian Country and ways to support stronger relationships to land and food.



*The terms 'Tribal' and 'Indian' are used in this document to refer to people within the geography of what is now called the United States, though Tribal relations extend beyond colonial borders. The term 'Indigenous' is used to refer to the original inhabitants of geographies across the globe.

History, Federal Policies, and Present Day



In the nineteenth and early twentieth centuries, U.S. federal government policy was designed to increase settler land base and assimilate Indians into non-Indian society; this included policy intended to encourage Western agriculture among Indians. The General Allotment Act of 1887, or the Dawes Act, created a framework for the federal government to lease Indian lands for agriculture and other forms of resource monetization.

The Dawes Act divided Tribal treaty lands into individually owned parcels at a standard of 40-160-acre plots or allotments. Members of tribes or reservations, the “original allottees”, received those parcels. The heirs of the original allottees inherited, and continue to inherit, a fraction of that allotment, resulting in today’s highly fractionated allotments with numerous Tribal owners. This is not the case for all Tribal owners. For some owners, the full allotment is under their single ownership. During the allotment era, after Indians received their parcels, any “surplus” lands were left to be sold to non-Indian farmers or ranchers.

This effort to promote Western agriculturalism to Indians, among other federal policies, led to today’s complex land ownership and land status in Indian Country. “Indian Country” is the area over which Tribal Nations and the federal government exercise primary jurisdiction and includes several land tenure types. Reservation land is generally organized under two types of status: fee or trust. Today, tribally owned land is held in trust for Indian people by the federal government, meaning Indian landowners cannot sell or lease their lands without government approval.



Definitions

This list of definitions includes terms that Tribal landowners may encounter while leasing their lands for agriculture. It is not comprehensive; rather, the list provides an introduction to common language needed to navigate Tribal land leasing.

Fee-simple (also known as **Fee Land** or **Fee Patent Land**): Land owned under a private ownership structure where Tribal or non-Tribal people can be the owners.

Trust land: Land held in trust by the federal government on behalf of individual Tribal citizens or land collectively owned by a Tribe.

Individual or Allotted Trust Land: Land held in trust by the federal government on behalf of Tribal citizens with individual allotments.

Fractionation: Under the Dawes Act, when the “original allottee” passed away, their heirs inherited undivided ownership interests in the allotment. Allotments continue to be passed through each successive generation, increasing the number of individual owners of undivided interests exponentially. Today, many allotments have dozens or hundreds of individual owners. This creates highly fractionated land parcels.

Note: Generally, for land use decisions on the allotment, the majority of co-owners must consent to that land use. Land fractionation thus makes land use decisions difficult if not impossible to attain majority interest in.

Undivided Interest: Heirs who inherit allotments individually own the undivided, or unpartitioned, parcel of land. This means that no heir owns any particular “piece” or specific area of the land; rather, an heir has an undivided ownership “share” of the allotment that is not an identifiable portion of the land.

Individual Trust Interest (ITI) Report: Contains information about a landowner’s trust land (surface) and mineral holdings (mineral rights). This includes the location and size of a trust land allotment, an allottee’s share of undivided interests in an allotment, and how much that share is worth. The ITI Report is generated by the Division of Trust Asset Ownership and Title which is under the BIA Land Titles and Records Office. This Division coordinates probate processing and records, maintains, and certifies land management ownership records of Indian Trust assets. An ITI can be requested through the local or regional BIA realty office using the tribal landowner’s enrollment number.

Public Domain Allotments: Land reserved out of the public domain for Indians by an Indian individual or family, but unlike larger reservations, they are not connected to any Native Tribe or governments and are not subject to Tribal jurisdiction.

Leasing for Agricultural Production on Allotted Lands

The Bureau of Indian Affairs (BIA) Division of Real Estate Services is responsible for assisting Tribal landowners in leasing their land for agricultural purposes. This assistance includes lease negotiation, finding a prospective lessee for your land, and enforcing tenant compliance with lease terms and conditions. All BIA assistance is required under the U.S. federal trust relationship to protect Indian interests in land use decisions; however, the federal government has not always fulfilled this responsibility and owners experience a variety of barriers in leasing processes. There are instances where the BIA can grant agricultural leases or permits on behalf of Indian landowners. For example, with highly fractionated land, the BIA can grant an agricultural lease if the Indian landowners' (which can be dozens or hundreds) whereabouts are unknown. Additionally, a landowner can receive written notice from the BIA stating the agencies' intent to grant a lease on their behalf. This notice begins a three-month negotiation period and if landowners are unable to agree upon a lease during that period, the BIA can move forward in granting that lease.

YOUR LOCAL BIA AGENCY AND TRIBAL STAFF

Local BIA Agencies (<https://www.bia.gov/regional-offices>) and Tribal staff (Natural Resources Programs, Land Departments and/or Tribal government) are generally responsible for coordinating the lease approval process on trust lands. This includes obtaining documentation that supports an agriculture lease and reviewing the lease's terms and conditions. In addition to BIA regulations for leases, tribes may enforce regulations specific to their landbase and resources.



Regenerative & Organic Practices 101

The Intertribal Agriculture Council defines **regenerative agriculture** as “a holistic approach to revitalizing land and ecological systems. It focuses on improving soil’s ability to regenerate over time by involving the whole farm ecosystem, including humans and wildlife.” Similarly, the term “**organic**” describes farming practices that aim to be in reciprocity with the earth through achieving positive environmental outcomes, such as soil and water health. Organic agriculture practices include the reduction or elimination of synthetic chemical inputs like pesticides and prioritizes biodiversity conservation. Together, these terms refer to farming practices that benefit the health of food systems, land, and people. Coined within recent decades, these terms describe ancient farming practices developed over many generations in numerous Indigenous communities around the world.

EXAMPLES OF REGENERATIVE & ORGANIC PRACTICES:

- Planting pollinator habitat using plants native to your area and suitable to the land
- Animal integration like grazing
- Cover crops
- Composting
- Crop rotation
- Conservation tillage or no-till
- Agroforestry



A Four Sisters Garden grown under the guidance of Tribal citizens of the Mandan, Hidatsa, and Arikara Nation who continue to carry on this agricultural practice from their ancestors.

Educational resources on regenerative organic practices are available through a variety of organizations such as the Natural Resource Conservation Services (NRCS), Rodale Institute, and Intertribal Agriculture Council. The NRCS has regional offices designed to serve your specific region. These resources can help define what practices are best for your leasing situation and bioregion.

Conclusion: Cultural Foods on Tribal Lands

Tribal Peoples learned over many generations how to sustainably grow and harvest diverse plants, animals, and fungi. This responsibility, knowledge, and relationship to foods and the earth at large remain today, though are significantly impacted by colonization. Practices found in regenerative and organic agriculture are sourced from these time-honored Indigenous land practices. Disruptions to Tribal food systems give us the opportunity today to restore Tribal Peoples' role as highly successful food growers and land stewards. On allotted lands, one way of revitalizing relationships to land and food is through understanding historical policies that created today's complex land tenure system. With this understanding, Tribal landowners are better situated to advocate for and integrate ancestral land practices, often defined as regenerative or organic practices, that further revitalize relationships between humans and land.

Restoring Tribal food systems looks like many things: establishing and revitalizing native plant/food habitat, hunting, sharing ancestral foods, fishing, ethical harvesting, basketry, gardening with ancestral foods or medicines, cooking with traditional methods and recipes, using and storing ancestral seed varieties, and more. The regenerative organic examples above can achieve or support these cultural food practices on your land.



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