

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

STATE OF SOUTH DAKOTA, *et al.*,
Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, *et al.*,
Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA

ADDENDUM TO BRIEF FOR THE FEDERAL APPELLEES

IGNACIA S. MORENO
Assistant Attorney General

ELIZABETH ANN PETERSON
JOHN EMAD ARBAB
Attorneys, Appellate Section
U.S. Department of Justice
Environment & Natural Res. Div.
P.O. Box 23795 (L'Enfant Station)
Washington, DC 20026
(202) 514-4046

ADDENDUM TO THE BRIEF FOR THE FEDERAL APPELLEES

State of South Dakota v. United States Department of the Interior
8th Cir. No. 11-1745

3 Indian Affairs Manual, Great Plains Regional Addendum 4.4

3 IAM GREAT PLAINS REGIONAL ADDENDUM

Part:	3	DELEGATION OF AUTHORITY	3IAM 4.4
Chapter:	4	Delegation of Regional Directors	
Subchapter:	4A	Great Plains Region Delegation of Authority	Page 3

1. General

1.1 Purpose. The purpose of this addendum is to provide for delegation of the authority granted to the Regional Director in 3 IAM Chapter 4.

1.2 Policy. The Great Plains Regional Office will issue all delegations of authority in accordance with the policies set forth in 3 IAM. All authorized area delegations shall be published in the Great Plains Regional Addendum to the 3 IAM.

1.3 Authority. This addendum is issued pursuant to the authority issued in Part 1, Directives, and Part 3, Delegations of Authority, of the Indian Affairs Manual.

1.4 Scope. This addendum documents delegations of authorities to Great Plains Regional officials. The delegations are not to be construed as depriving the Regional Director of the authority conferred upon him/her by the Assistant Secretary - Indian Affairs.

1.5 Approval of Delegations. Authorities delegated by this addendum may not be redelegated without prior approval of the Regional Director.

2. Delegation of Authority to Regional Office Officials

2.1 Authority Delegated to Deputy Regional Directors. Subject to the limitations, exceptions, and restrictions set forth in this addendum, the Deputy Regional Director is authorized to exercise the authorities delegated to the Regional Director as cited below.

(1) Domestic Travel Authorization. Pursuant to the authority delegated in 3 IAM Chapter 4, and the limitations therein, the Deputy Regional Directors are authorized, with respect to funds within his/her control which are available for such purposes, to issue authorizations for travel within and outside the Great Plains Region, except to Washington, D.C. This authority includes: (1) temporary duty travel for employees; (2) travel of members, private persons, persons serving without compensation, etc., and (3) approval of travel and transportation expenses

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incident to the attendance of meetings or conventions of societies or associations concerned with the work of the Bureau, the expense thereof not to exceed \$5,000.00.

For limitations of approval of attendance at meetings or conventions, refer to 205 DM 2.1. Policy and limitations for approving conferences or meetings where total cost of travel and per diem is in excess of \$5,000.00 and for multi-area or national meetings are published in 42 BIAM, Supp.4, Bulletin 3, dated June 8, 1992.

2.2 Authority Delegated to the Deputy Regional Director-Trust Services. Subject to the limitations, exceptions, and restrictions set forth in this addendum, the Deputy Regional Director for Trust Services is authorized to exercise the authorities delegated to the Regional Director as cited below:

a. a. Approval authority for land sale deeds associated with the Indian Land Consolidation Program in the Great Plains Regional Office.

2.3 Authority Delegated to Regional Office Branch Chiefs. Subject to the limitations, exceptions, and restrictions set forth in this addendum, Great Plains Regional Office Branch Chiefs, **except** Economic Development, are authorized to exercise authorities delegated to the Deputy Regional Directors as cited below:

(1) Domestic Travel Authorization. Pursuant to the authority delegated in 3 IAM Chapter 4, and the limitations therein, Regional Office Branch Chiefs are authorized, with respect to funds within his/her control which are available for such purposes, to approve **travel vouchers** for employees under their supervision for travel within the Great Plains Region only.

Branch Chiefs may not authorize their own Travel Authorizations.

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3. Authority of Agency Superintendents

3.1 Authority Delegated to all Superintendents. Subject to the limitations, exceptions, and restrictions set forth in this addendum, Agency Superintendents are authorized to exercise the authorities delegated to the Regional Director as cited below.

A. Accounting.

(1) Domestic Travel Authorization. Pursuant to the authority delegated in 3 IAM Chapter 4, and the limitations therein, BIA Agency Superintendents are authorized, with respect to funds within their control which are available for such purposes, to issue authorizations for travel within and outside the Great Plains Region, except to Washington, D.C. This authority includes: (1) temporary duty travel for employees; (2) travel of members, private persons, persons serving without compensation, etc., and (3) approval of travel and transportation expenses incident to the attendance of meetings or conventions of societies or associations concerned with the work of the Bureau, the expense thereof not to exceed \$5,000.

For limitations of approval of attendance at meetings or conventions, refer to 205 DM 2.1. Policy and limitations for approving conferences or meetings where total cost of travel and per diem is in excess of \$5,000 and for multi-area or national meetings are published in 42 BIAM, Supp. 4, Bulletin 3, date June 8, 1992.

Superintendents may not authorize their own Travel Authorizations.

D. Employment Assistance. Direct employment assistance and adult Indian vocational training(45 IAM). Authority to approve or disapprove second repeat services (third grants), direct employment and adult Indian vocational training applications.

F. Forestry.

(1) Timber sales and advertisement. Issue advertisement and approve timber sale contracts on approved forms involving an

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estimated stumpage volume of not to exceed 50,000 feet, board measure, pursuant to 25 CFR 163.8 and 25 CFR 163.13.

(2) Approve contracts pursuant to 25 CFR 163.13 for the sale of timber from individual allotments, without regard to estimated volumes, on approved forms executed under authority of an approved general contract, with such provisions incorporated therein as the approving officer or the general contract shall stipulate.

(3) Issue timber cutting permits on an approved form pursuant to 25 CFR 163.19.

(4) Fire Management. Hire temporary labor, rent equipment, purchase tools and supplies and pay for fires pursuant to 25 CFR 163.21.

J. Personnel Matters.

(1) Permission for employees to testify in court.

(2) Administrative grievance. See 370 DM 771.

(3) Appointment authority. Agency Superintendents are delegated the authority and responsibility for all appointments up to the GS-7 level and all non-supervising wage grade and wage board positions.

(4) Approval of training. Agency Superintendents are delegated the authority to approve training requests up to 120 hours as found in FPM/44 BIAM.

(5) Incentive Awards. Pursuant to the authority in 3 IAM 4.3B.(3), Agency Superintendents are delegated the authority to approve incentive awards up to \$2,500.00. This is the maximum amount an employee may receive within one performance year (October 1st through September 30th).

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L. Economic Development.

(1) Approval of mortgages and deeds of trust. The approval of mortgages and deeds of trust pursuant to 25 CFR 152.34, given as security for loans to finance productive enterprises operated by borrowers; to provide housing facilities for borrowers; and for the purchase or construction of other improvements to be utilized by borrowers when loans are made.

(2) Loan Agreements and Modifications. The approval of applications for and modifications of loans to individuals subject to the availability of funds, pursuant to 25 CFR Part 101 and 103, providing amounts and conditions of loans shall be consistent with and shall not exceed the limitations as set forth in Bureau-approved declarations of policy and plans of operations.

(3) Indian Business Development Grants. The approval of applications for and modifications of Indian Business Development grants, subject to fund availability, pursuant to 25 CFR Part 286.

(4) Enforcement Terms, Loan Agreements. The approval to take necessary steps upon failure of individual borrowers or cooperative associations to conform to the terms of their loan agreements from tribes, bands, credit associations of the United States pursuant to 25 CFR 101.15 and 103.36.

(5) Approval of Partial Releases and Satisfactions. The approval of partial releases and satisfactions of mortgages given as security for loans to individuals from the United States made pursuant to 25 CFR 101.13 and 103.27.

(6) Accounting and Records Systems. The authority to inspect the approved accounting and records systems of incorporated and unincorporated tribes and bands, corporate and tribal enterprises, cooperatives, and credit associations pursuant to 25 CFR 101.12 and 103.52.

(7) Loan Security. The approval of mortgages of trust chattel and crops on trust or restricted lands of an Indian and assignments of income from trust or restricted land of an Indian as security for a loan by any lender in accordance with 25 CFR 101.13 and 103.27.

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(8) Release of U.S. Interests. Approval of release of interests of the United States in any trust or restricted property of an Indian in accordance with 25 CFR 103.35

N. Natural Resources.

(1) Trader's licenses. The issuance of licenses to traders with the Indian tribes and the removal and revocation of licenses pursuant to 25 CFR Part 140.

(2) Waiver of technical defects in advertisements and proposals for grazing privileges. Exercise of the right reserved in Form 5-510, Sale of Grazing Privileges, to waive technical defects in the advertisements and proposals received in response thereto.

(3) Approval, modification and cancellation of grazing permits. The advertising, award, approval, modification, assignment and cancellation of grazing permits, pursuant to 25 CFR Part 166: (Including the establishment of stocking rates). Provided, that permits approved at the beginning of a contract period accord to a schedule of allocated and advertised range units approved by the Regional Director, and provided further that permits shall not be issued at rental and stocking rates, less than the minimum approved by the Regional Director.

O. Real Estate Services.

(1) Authority to conduct and approve environmental assessments, except "Findings of No Significant Impact that are based upon environmental assessments and that are related to proposed land acquisitions for gaming operations, proposed leases of land for gaming operations, or two-part determinations under Section 20 of the Indian Gaming Regulatory Act, may be made only with the prior concurrence of the Director, Office of Indian Management Gaming," as specified in Part 3, Chapter 4, subparagraph 4.5 A. of the Indian Affairs Manual.

(2) Mineral leases and permits. The granting or permission to negotiate and approve permits and leases of tribal and individually owned trust or restricted lands for coal, sand, gravel, pumice, building stone and oil and gas, including approval of unit agreements, communitization agreements, and other types of

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agreements subject to review and recommendation by the Bureau of Land Management (BLM) and Bureau of Indian Affairs, Divisions of Energy and Minerals, provided a fair market value determination is obtained. The authority delegated does not include:

a. approval of leases on lands purchased or reserved for agency or school purposes;

b. approval of assignments or other instruments providing for the payments of overriding royalties or payments out of production as set forth in 25 CFR Parts 211.53 and 212.53;

c. assignments of separate horizons or strata of the subsurface, and

d. disapproval of mineral agreements which is reserved to the Assistant Secretary - Indian Affairs.

(3) Leases and permits. All those matters set forth in 25 CFR Part 162, except:

a. modification of any forms approved by the Secretary of the Interior, Deputy Assistant Secretary Indian Affairs (Operations), or the Regional Director;

b. the waiver or modification of bond requirements as set forth in 25 CFR 162.5 (c); and

c. the waiver or modification of lease fees under 25 CFR 162.13 (b)

(4) Acquisition and Disposal.

a. Approval authority for the following:

(1) gift conveyances,

(2) deferred sales between individual Indians and Tribes,

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(3) negotiated sales between individual Indians and Tribes, and deferred sales between individuals,

(4) negotiated sales to Tribes, and negotiated sales between individuals,

(5) exchanges between individuals,

(6) exchanges between individuals and Tribes,

(7) partitions by deed,

(8) on reservation fee to trust transactions,

(9) appraisals of undivided interests in agricultural real estate, and

(10) appraisals of undivided interests in trust or restricted land as set forth in 25 CFR 154.24.

b. The authority delegated in this section does not include:

(1) off reservation fee to trust transactions;
(2) fee to trust transactions for the purpose of gaming,

(3) request for Patents in Fee;
(4) recession of deeds;
(5) transfer of excess government-owned lands to Tribes; and

(6) revocation of agency, tribal, or administrative reserve lands.

(7) fee-to-trust transactions (both on and off reservation) for only the Rosebud Sioux Tribe under Public Law 88-196, known as the Rosebud Sioux Tribe's Isolated Tract's Act.

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2011, I electronically filed the foregoing Addendum to Brief for the Federal Appellees with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/Elizabeth Ann Peterson
Attorney, Appellate Section
U.S. Department of Justice
Environment & Natural Res. Div.
P.O. Box 23795 (L'Enfant Station)
Washington, DC 20026
(202) 514-4046

