



(4310-W7-P)

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Rate Adjustments for Indian Irrigation Projects

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of proposed rate adjustments.

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**SUMMARY:** The Bureau of Indian Affairs (BIA) owns or has an interest in irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain, and rehabilitate these projects. We request your comments on the proposed rate adjustments.

**DATES:** Interested parties may submit comments on the proposed rate adjustments on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER].

**ADDRESSES:** All comments on the proposed rate adjustments must be in writing and addressed to: Yulan Jin, Acting Chief, Division of Water and Power, Office of Trust Services, Mail Stop 4637-MIB, 1849 C Street, NW, Washington, DC 20240, Telephone (202) 219-0941.

**FOR FURTHER INFORMATION CONTACT:** For details about a particular irrigation project, please use the tables in SUPPLEMENTARY INFORMATION section to contact the regional or local office where the project is located.

**SUPPLEMENTARY INFORMATION:** The first table in this notice provides contact information for individuals who can give further information about the irrigation projects covered by this notice. The second table provides the current 2012 irrigation assessment rates, the proposed rates for the 2013 irrigation season, and proposed rates for subsequent years where

these are available.

**What is the meaning of the key terms used in this notice?**

In this notice:

Administrative costs mean all costs we incur to administer our irrigation projects at the local project level and is a cost factor included in calculating your operation and maintenance assessment. Costs incurred at the local project level do not normally include Agency, Region, or Central Office costs unless we state otherwise in writing.

Assessable acre means lands designated by us to be served by one of our irrigation projects, for which we collect assessments in order to recover costs for the provision of irrigation service. (See total assessable acres.)

BIA means the Bureau of Indian Affairs.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, and/or rehabilitation. The date we mail or hand-deliver your bill will be stated on it.

Costs means the costs we incur for administration, operation, maintenance, and rehabilitation to provide direct support or benefit to an irrigation facility. (See administrative costs, operation costs, maintenance costs, and rehabilitation costs).

Customer means any person or entity to which we provide irrigation service.

Due date is the date on which your bill is due and payable. This date will be stated on your bill.

I, me, my, you and your means all persons or entities that are affected by this notice.

Irrigation project means a facility or portion thereof for the delivery, diversion, and storage of irrigation water that we own or have an interest in, including all appurtenant works.

The term “irrigation project” is used interchangeably with irrigation facility, irrigation system, and irrigation area.

Irrigation service means the full range of services we provide customers of our irrigation projects. This includes our activities to administer, operate, maintain, and rehabilitate our projects in order to deliver water.

Maintenance costs means costs we incur to maintain and repair our irrigation projects and associated equipment and is a cost factor included in calculating your operation and maintenance assessment.

Operation and maintenance (O&M) assessment means the periodic charge you must pay us to reimburse costs of administering, operating, maintaining, and rehabilitating irrigation projects consistent with this notice and our supporting policies, manuals, and handbooks.

Operation or operating costs means costs we incur to operate our irrigation projects and equipment and is a cost factor included in calculating your O&M assessment.

Past due bill means a bill that has not been paid by the close of business on the 30<sup>th</sup> day after the due date as stated on the bill. Beginning on the 31<sup>st</sup> day after the due date, we begin assessing additional charges accruing from the due date.

Rehabilitation costs means costs we incur to restore our irrigation projects or features to original operating condition or to the nearest state which can be achieved using current technology and is a cost factor included in calculating your O&M assessment.

Responsible party means an individual or entity that owns or leases land within the assessable acreage of one of our irrigation projects and is responsible for providing accurate information to our billing office and paying a bill for an annual irrigation rate assessment.

Total assessable acres means the total acres served by one of our irrigation projects.

Water delivery is an activity that is part of the irrigation service we provide our customers when water is available.

We, us, and our means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this notice.

**Does this notice affect me?**

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

**Where can I get information on the regulatory and legal citations in this notice?**

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Printing Office at <http://www.gpo.gov>.

**Why are you publishing this notice?**

We are publishing this notice to notify you that we propose to adjust our irrigation assessment rates. This notice is published in accordance with the BIA's regulations governing its operation and maintenance of irrigation projects, found at 25 CFR Part 171. This regulation provides for the establishment and publication of the rates for annual irrigation assessments as well as related information about our irrigation projects.

**What authorizes you to issue this notice?**

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary - Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

**When will you put the rate adjustments into effect?**

We will put the rate adjustments into effect for the 2013 irrigation season and subsequent years where applicable.

**How do you calculate irrigation rates?**

We calculate annual irrigation assessment rates in accordance with 25 CFR Part 171.500 by estimating the annual costs of operation and maintenance at each of our irrigation projects and then dividing by the total assessable acres for that particular irrigation project. The result of this calculation for each project is stated in the rate table in this notice.

**What kinds of expenses do you consider in determining the estimated annual costs of operation and maintenance?**

Consistent with 25 CFR Part 171.500, these expenses include the following:

- (a) Salary and benefits for the project engineer/manager and project employees under the project engineer/manager's management or control;
- (b) Materials and supplies;
- (c) Vehicle and equipment repairs;
- (d) Equipment costs, including lease fees;
- (e) Depreciation;
- (f) Acquisition costs;
- (g) Maintenance of a reserve fund available for contingencies or emergency costs needed for the reliable operation of the irrigation facility infrastructure;
- (h) Maintenance of a vehicle and heavy equipment replacement fund;
- (i) Systematic rehabilitation and replacement of project facilities;
- (j) Contingencies for unknown costs and omitted budget items; and
- (k) Other expenses we determine necessary to properly perform the activities and

functions characteristic of an irrigation project.

**When should I pay my irrigation assessment?**

We will mail or hand-deliver your bill notifying you of: (a) the amount you owe to the United States; and (b) when such amount is due. If we mail your bill, we will consider it as being delivered no later than 5 business days after the day we mail it. You should pay your bill by the due date stated on the bill.

**What information must I provide for billing purposes?**

All responsible parties are required to provide the following information to the billing office associated with the irrigation project where you own or lease land within the project's assessable acreage or to the billing office associated with the irrigation project with which you have a carriage agreement:

- (1) The full legal name of person or entity responsible for paying the bill;
- (2) An adequate and correct address for mailing or hand-delivering our bill; and
- (3) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

**Why are you collecting my taxpayer identification number or social security number?**

Public Law 104-134, the Debt Collection Improvement Act of 1996, requires that we collect the taxpayer identification number or social security number before billing a responsible party and as a condition to servicing the account.

**What happens if I am a responsible party but I fail to furnish the information required to the billing office responsible for the irrigation project within which I own or lease assessable land or for which I have a carriage agreement?**

If you are late paying your bill because of your failure to furnish the required information

listed above, you will be assessed interest and penalties as provided below, and your failure to provide the required information will not provide grounds for you to appeal your bill or any penalties assessed.

**What can happen if I do not provide the information required for billing purposes?**

We can refuse to provide you irrigation service.

**If I allow my bill to become past due, could this affect my water delivery?**

If we do not receive your payment before the close of business on the 30<sup>th</sup> day after the due date stated on your bill, we will send you a past due notice. This past due notice will have additional information concerning your rights. We will consider your past due notice as delivered no later than 5 business days after the day we mail it. We have the right to refuse water delivery to any irrigated land for which the bill is past due. We can continue to refuse water delivery until you pay your bill or make payment arrangements to which we agree. We follow the procedures provided in 31 CFR 901.2, "Demand for Payment," when demanding payment of your past due bill.

**Are there any additional charges if I am late paying my bill?**

Yes. We will assess you interest on the amount owed, using the rate of interest established annually by the Secretary of the United States Treasury (Treasury) to calculate what you will be assessed (31 CFR 901.9(b)). You will not be assessed this charge until your bill is past due. However, if you allow your bill to become past due, interest will accrue from the original due date, not the past due date. Also, you will be charged an administrative fee of \$12.50 for each time we try to collect your past due bill. If your bill becomes more than 90 days past due, you will be assessed a penalty charge of six percent (6%) per year, which will accrue from the date your bill initially became past due. As a Federal agency, we are required to charge

interest, penalties, and administrative costs on debts owed to us pursuant to 31 U.S.C. 3717 and 31 CFR 901.9, “Interest, penalties, and administrative costs.”

**What else will happen to my past due bill?**

If you do not pay your bill or make payment arrangements to which we agree, we are required to send your past due bill to the Treasury for further action. Under the provisions of 31 CFR 901.1, “Aggressive agency collection activity,” we must send any unpaid annual irrigation assessment bill to Treasury no later than 180 days after the original due date of the bill.

**Who can I contact for further information?**

The following tables are the regional and project/agency contacts for our irrigation facilities.

<b>Northwest Region Contacts</b>	
Stanley Speaks, Regional Director Bureau of Indian Affairs, Northwest Regional Office 911 N.E. 11 <sup>th</sup> Avenue Portland, Oregon 97232-4169 Telephone: (503) 231-6702	
Project Name	Project/Agency Contacts
Fort Hall Irrigation Project	Dean Fox, Superintendent Fort Hall Agency P.O. Box 220 Fort Hall, ID 83203-0220 Telephone: (208) 238-2301
Wapato Irrigation Project	Edwin Lewis, Project Administrator Wapato Irrigation Project P.O. Box 220 Wapato, WA 98951-0220 Telephone: (509) 877-3155

<b>Rocky Mountain Region Contacts</b>
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Ed Parisian, Regional Director Bureau of Indian Affairs, Rocky Mountain Regional Office 316 North 26th Street Billings, Montana 59101 Telephone: (406) 247-7943	
Project Name	Agency/Project Contacts
Blackfeet Irrigation Project	Stephen Pollock, Superintendent Greg Tatsey, Irrigation Project Manager Box 880 Browning, MT 59417 Telephones: (406) 338-7544, Superintendent (406) 338-7519, Irrigation Project Manager
Crow Irrigation Project	Vianna Stewart, Superintendent Kyle Varvel, Irrigation Project Manager P.O. Box 69 Crow Agency, MT 59022 Telephones: (406) 638-2672, Superintendent (406) 638-2863, Irrigation Project Manager
Fort Belknap Irrigation Project	Cliff Hall, Superintendent Vacant, Irrigation Project Manager (Project operations & management contracted to Tribes) R.R.1, Box 980 Harlem, MT 59526 Telephones: (406) 353-2901, Superintendent (406) 353-8454, Irrigation Project Manager (Tribal Office)
Fort Peck Irrigation Project	Rhonda Knudsen, Superintendent P.O. Box 637 Poplar, MT 59255 Huber Wright, Acting Irrigation Project Manager 602 6th Avenue North Wolf Point, MT 59201 Telephones: (406) 768-5312, Superintendent (406) 653-1752, Irrigation Project Manager
Wind River Irrigation Project	Ed Lone Fight, Superintendent Brent Allen, Irrigation Project Manager P.O. Box 158 Fort Washakie, WY 82514 Telephones: (307) 332-7810, Superintendent (307) 332-2596, Irrigation Project Manager

<b>Southwest Region Contacts</b>	
William T. Walker, Regional Director Bureau of Indian Affairs, Southwest Regional Office 1001 Indian School Road Albuquerque, New Mexico 87104 Telephone: (505) 563-3100	
Project Name	Project/Agency Contacts

Pine River Irrigation Project	John Waconda, Superintendent Vacant, Irrigation Systems Operator, Irrigation Engineer P.O. Box 315 Ignacio, CO 81137-0315 Telephones: (970) 563-4511, Superintendent (970) 563-9484, Irrigation Engineer
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<b>Western Region Contacts</b>
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<p>Bryan Bowker, Regional Director Bureau of Indian Affairs, Western Regional Office 2600 N. Central Ave. 4<sup>th</sup> Floor Mailroom Phoenix, Arizona 85004 Telephone: (602) 379-6600</p>
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Project Name	Project/Agency Contacts
Colorado River Irrigation Project	MarDon Glory, Acting Superintendent Gary Colvin, Acting Irrigation Project Manager 12124 1 <sup>st</sup> Avenue Parker, AZ 85344 Telephone: (928) 669-7111
Duck Valley Irrigation Project	Joseph McDade, Superintendent 2719 Argent Avenue, Suite 4, Gateway Plaza Elko, NV 89801 Telephone: (775) 738-0569
Fort Yuma Irrigation Project	Irene Herder, Superintendent 256 South Second Avenue, Suite D Yuma, AZ 85364 Telephone: (928) 782-1202
San Carlos Irrigation Project Joint Works	Ferris Begay, Acting Project Manager Clarence Begay, Irrigation Manager P.O. Box 250 Coolidge, AZ 85128 Telephone: (520) 723-6203
San Carlos Irrigation Project Indian Works	Cecilia Martinez, Superintendent Joe Revak, Supervisory General Engineer Pima Agency, Land Operations P.O. Box 8 Sacaton, AZ 85147 Telephone: (520) 562-3326 Telephone: (520) 562-3372
Uintah Irrigation Project	Johanna Blackhair, Superintendent Dale Thomas, Irrigation Manager P.O. Box 130 Fort Duchesne, UT 84026 Telephone: (435) 722-4300 Telephone: (435) 722-4344
Walker River Irrigation Project	Athena Brown, Superintendent 311 E. Washington Street Carson City, NV 89701 Telephone: (775) 887-3500

**What irrigation assessments or charges are proposed for adjustment by this notice?**

The rate table below contains the current rates for all irrigation projects where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the proposed rates for the 2013 season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation projects where rates are proposed for adjustment.

<b>Northwest Region Rate Table</b>			
Project Name	Rate Category	Final 2012 Rate	Proposed 2013 Rate
Fort Hall Irrigation Project *	Basic-per acre	\$45.50	\$47.00
	Minimum Charge per tract	\$32.50	\$32.50
Fort Hall Irrigation Project - Minor Units *	Basic-per acre	\$23.50	\$24.00
	Minimum Charge per tract	\$32.50	\$32.50
Fort Hall Irrigation Project – Michaud *	Basic-per acre	\$45.00	\$47.50
	Pressure per acre	\$62.00	\$65.50
	Minimum Charge per tract	\$32.50	\$32.50
Wapato Irrigation Project – Toppenish/Simcoe Units *	Minimum Charge for per bill	\$20.00	\$21.00
	Basic-per acre	\$20.00	\$21.00
Wapato Irrigation Project - Ahtanum Units *	Minimum Charge per bill	\$20.00	\$24.00
	Basic-per acre	\$20.00	\$24.00
Wapato Irrigation Project - Satus Unit *	Minimum Charge for per bill	\$65.00	\$71.00
	“A” Basic-per acre	\$65.00	\$71.00
	“B” Basic-per acre	\$70.00	\$77.00

Wapato Irrigation Project - Additional Works *	Minimum Charge per bill	\$67.00	\$71.00
	Basic-per acre	\$67.00	\$71.00
Wapato Irrigation Project - Water Rental *	Minimum Charge	\$72.00	\$79.00
	Basic-per acre	\$72.00	\$79.00

<b>Rocky Mountain Region Rate Table</b>			
Project Name	Rate Category	Final 2012 Rate	Proposed 2013 Rate
Blackfeet Irrigation Project *	Basic-per acre	\$19.00	\$19.50
Crow Irrigation Project – Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units) *	Basic-per acre	\$23.30	\$23.80
Crow Irrigation Project – All Others (includes Bighorn, Soap Creek, and Pryor Units) *	Basic-per acre	\$23.00	\$23.50
Crow Irrigation Two Leggins Drainage District	Basic-per acre	\$2.00	\$2.00
Fort Belknap Irrigation Project *	Basic-per acre	\$14.75	\$15.00
Fort Peck Irrigation Project *	Basic-per acre	\$24.70	\$25.00
Wind River Irrigation Project – Units 2, 3 and 4 *	Basic-per acre	\$20.00	\$21.00
Wind River Irrigation Project – LeClair District * (see Note#1)	Basic-per acre	\$20.00	\$30.84
Wind River Irrigation Project – Crow Heart Unit *	Basic-per acre	\$14.00	\$14.00
Wind River Irrigation Project – A Canal Unit *	Basic-per acre	\$ 14.00	\$14.00
Wind River Irrigation Project – Riverton Valley Irrigation District	Basic-per acre	\$16.00	\$16.00

<b>Southwest Region Rate Table</b>			
Project Name	Rate Category	Final 2012 Rate	Proposed 2013 Rate
Pine River Irrigation Project	Minimum Charge per tract	\$50.00	\$50.00
	Basic-per acre	\$15.00	\$15.00

<b>Western Region Rate Table</b>				
Project Name	Rate Category	Final 2012 Rate	Proposed 2013 Rate	Proposed 2014 Rate
Colorado River Irrigation Project	Basic-per acre up to 5.75 acre-feet	\$54.00	\$54.00	To be determined
	Excess Water per acre-foot over 5.75 acre-feet	\$17.00	\$17.00	
Duck Valley Irrigation Project	Basic-per acre	\$5.30	TBD	
Fort Yuma Irrigation Project (See Note #2)	Basic-per acre up to 5.0 acre-feet	\$86.00	TBD	
	Excess Water per acre-foot over 5.0 acre-feet	\$14.00	TBD	
	Basic-per acre up to 5.0 acre-feet (Ranch 5)	\$86.00	TBD	
San Carlos Irrigation Project (Joint Works) (See Note #3)	Basic-per acre	\$30.00	\$30.00	\$30.00
	Proposed 2012 – 2013 Construction Water Rate Schedule:			
		Off Project Construction	On Project Construction - Gravity Water	On Project Construction - Pump Water
Administrative Fee		\$300.00	\$300.00	\$300.00
Usage Fee		\$250.00 per month	No Fee	\$100.00 per acre-foot
Excess Water Rate†		\$5 per 1000 gal	No charge	No charge
†The excess water rate applies to all water used in excess of 50,000 gallons in any one month.				

San Carlos Irrigation Project (Indian Works) * (See Note#4)	Basic-per acre	\$73.00	\$81.00	To be determined
Uintah Irrigation Project	Basic-per acre	\$16.00	\$16.00	
	Minimum Bill	\$25.00	\$25.00	
Walker River Irrigation Project *	Indian per acre	\$25.00	\$28.00	
	non-Indian per acre	\$25.00	\$28.00	

\* Notes irrigation projects where rates are proposed for adjustment.

Note #1 - The O&M rate varies yearly based upon the budget submitted by the LeClair District.

Note #2 – The O&M rate for the Fort Yuma Irrigation Project has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for 2013 is yet to be determined. The second component is for the O&M rate established by BIA to cover administrative costs including billing and collections for the Project. The 2013 BIA rate also is yet to be determined.

Note #3 – The 2013 rate was established by final notice in the Federal Register on February 23, 2012 (Vol. 77 No. 36, page 10767). In addition, a Construction Water Rate Schedule for the San Carlos Irrigation Project – Joint Works is now formally established. The rate schedule establishes the fees assessed for use of irrigation water for non-irrigation purposes.

Note #4 - The 2013 O&M rate for the San Carlos Irrigation Project – Indian Works has three components. The first component is the O&M rate established by the San Carlos Irrigation Project – Indian Works, the owner and operator of the Project; this rate is proposed to be \$43 per acre. The second component is for the O&M rate established by the San Carlos Irrigation Project – Joint Works and is determined to be \$30.00 per acre. The third component is the O&M rate established by the San Carlos Irrigation Project Joint Control Board and is proposed to be \$8 per acre.

**Consultation and Coordination with Tribal Governments (Executive Order 13175)**

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and

consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

**Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)**

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

**Regulatory Planning and Review (Executive Order 12866)**

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish “a rule of particular applicability relating to rates.” 5 U.S.C. 601(2).

**Unfunded Mandates Reform Act of 1995**

These rate adjustments do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than \$130 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

**Takings (Executive Order 12630)**

The Department has determined that these rate adjustments do not have significant “takings” implications. The rate adjustments do not deprive the public, state, or local governments of rights or property.

#### **Federalism (Executive Order 13132)**

The Department has determined that these rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

#### **Civil Justice Reform (Executive Order 12988)**

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

#### **Paperwork Reduction Act of 1995**

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076-0141 and expires December 31, 2012.

#### **National Environmental Policy Act**

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370(d)).

**Information Quality Act**

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. No. 106-554).

Dated: October 11, 2012

Michael R. Smith  
Acting Director, Bureau of Indian Affairs

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