

OTHER MISCELLANEOUS PROVISIONS

§ 170.941 May tribes become involved in transportation research?

Yes. Tribes may:

(a) Participate in Transportation Research Board meetings, committees, and workshops sponsored by the National Science Foundation;

(b) Participate in and coordinate the development of tribal and IRR transportation research needs;

(c) Submit transportation research proposals to States, FHWA, AASHTO, and FTA;

(d) Prepare and include transportation research proposals in their IRR TIPS;

(e) Access Transportation Research Information System Network (TRISNET) database; and

(f) Participate in transportation research activities under Intergovernmental Personnel Act agreements.

§ 170.942 Can a tribe use Federal funds for transportation services for a tribe's Welfare-to-Work, Temporary Assistance to Needy Families, and other quality-of-life improvement programs?

(a) A tribe can use IRR Program funds:

(1) To coordinate transportation-related activities to help provide access to jobs and make education, training, childcare, healthcare, and other services more accessible to tribal members; and

(2) As the matching share for other Federal, State, and local mobility programs

(b) To the extent authorized by law additional grants and program funds are available for the purposes in paragraph (a)(1) of this section from other programs administered by the Departments of Transportation, Health and Human Services, and Labor.

(c) Tribes should also apply for Federal and State public transportation and personal mobility program grants and funds.

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AUTHORITY: 25 U.S.C. 2; 25 U.S.C. 9; 25 U.S.C. 13; 25 U.S.C. 381; Act of April 4, 1910, 36 Stat. 270, as amended (codified at 25 U.S.C. 385); 25 U.S.C. 386a; Act of June 22, 1936, 49 Stat. 1803 (codified at 25 U.S.C. 389 *et seq.*).

SOURCE: 73 FR 11036, Feb. 29, 2008, unless otherwise noted.

Subpart A—General Provisions

§ 171.100 What are some of the terms I should know for this part?

Annual Assessment Waiver means a mechanism for us to waive your annual operation and maintenance assessment under certain specified circumstances.

Annual operation and maintenance assessment means the charges you must pay us for our costs of administration, operation, maintenance, and rehabilitation of the irrigation facility servicing your farm unit.

Annual operation and maintenance assessment rate means the per acre charge we establish for the irrigation facility servicing your farm unit.

Assessable acres (see *Total assessable acres*).

Authorized use means your use of water delivered by us that supports irrigated agriculture, livestock, Carriage Agreements or other uses defined by laws, regulations, treaty, compact, judicial decree, river regulatory plan, or other authority.

BIA means the Bureau of Indian Affairs within the United States Department of the Interior.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, rehabilitation, and/or construction of the irrigation facility servicing your farm unit.

Carriage Agreement means a legally binding contract we enter into:

- (1) To convey third-party water through our irrigation facilities; or
- (2) To convey our water through third-party facilities.

Construction assessment means the periodic charge we assess you to repay us the funds we used to construct our irrigation facilities serving your farm unit that are determined to be reimbursable under applicable statutes.

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

Ditch (see *Farm ditch* or *Service ditch*).

Due date means the date printed on your bill, 30 days after which your bill becomes past due.

Facility (see *Irrigation facility*).

Farm ditch means a ditch or canal that you own, operate, maintain, and rehabilitate.

Farm unit means the smallest parcel of land for which we will establish a delivery point. Farm unit size is defined in the authorizing legislation for each irrigation facility, or in the absence of such legislation, we will define the farm unit size.

I, me, my, you, and your means all interested parties, especially persons or entities to which we provide irrigation service and receive use of our irrigation facilities, such as irrigators, landowners, leasees, irrigator organizations, irrigation districts, or other entities affected by this part and our supporting policies, manuals, and handbooks.

Idle lands means lands that are not currently farmed because they have characteristics that limit crop production.

Incentive Agreement means a written agreement between you and us that allows us to waive your annual operation and maintenance assessment, when you agree to improve idle lands and we determine that it is in the best interest of our irrigation facility.

Irrigation bill (see *Bill*).

Irrigation district (see *Representative organization*).

Irrigation facility means all structures and appurtenant works for the delivery, diversion, and storage of irrigation water. These facilities may be referred to as projects, systems, or irrigation areas.

Irrigation service means the full range of services we provide customers, including but not limited to administration, operation, maintenance, and rehabilitation of our irrigation facilities.

Irrigation water or *water* means water we deliver through our facilities for the general purpose of irrigation and other authorized purposes.

Irrigator (see *Customer*).

Landowner means a person or entity that owns fee, tribal trust, and/or individual allotted trust lands.

Leaching Service means our delivery of water to you at your request for the purpose of transporting salts below the root zone of a farm unit.

Lessee means any person or entity that holds a lease approved by us on lands to which we provide irrigation service.

Must means an imperative or mandatory act or requirement.

My land and *your land* mean all or part of your farm unit.

Obstruction means anything permanent or temporary that blocks, hinders, impedes, stops or cuts off our facilities or our ability to perform the services we determine necessary to provide service to our customers.

Organization (see *Representative organization*).

Past due bill means a bill that has not been paid within 30 days of the due date stated on your bill.

Permanently non-assessable acres (PNA) means lands that the Secretary of the Interior has determined to be permanently non-irrigable pursuant to the standards set out in 25 U.S.C. 389b.

Representative organization or *organization* means a legally established organization representing your interests that confers with us on how we provide irrigation service at a particular irrigation facility.

Service(s) (see *Irrigation service*).

Service area means lands designated by us to be served by one of our irrigation facilities.

Service ditch means a ditch or canal which we own, administer, operate, maintain, and rehabilitate that we use to provide irrigation service to your farm unit.

Soil salinity means soils containing high salt content that limit crop production.

Special assessment means a charge to cover the uncontrolled cost arising from an urgency on an irrigation facility.

Structures (see *Irrigation facility*).

Subdivision means a farm unit that has been subdivided into smaller parcels.

Supplemental water means water available for delivery by our irrigation

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facilities beyond the quantity necessary to provide all project customers requesting water with the per-acre water duty established for that project.

Taxpayer identifying number means either your Social Security Number or your Employer Identification Number.

Temporarily non-assessable acres (TNA) means lands that the Secretary of the Interior has determined to be temporarily non-irrigable pursuant to the standards set out in 25 U.S.C. 389a.

Total assessable acres means the total acres of land served by one of our irrigation facilities to which we assess operation and maintenance charges. The *Total assessable acres* within the service area of an irrigation facility do not include those acres of land that are designated PNA or TNA, nor those acres of land granted an Annual Assessment Waiver.

Trust or restricted land or land in trust or restricted status (see definitions in 25 CFR 151.2).

Urgency means a situation that we have determined may adversely impact our irrigation facilities, operation, or other irrigation activities; affect public safety; or damage property or equipment.

Wastewater means surface runoff and subsurface drainage from your farm unit from water delivered by us that exceeds irrigation requirements.

Water (see *Irrigation water*).

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

Water duty means the amount of water, in acre-feet per acre, necessary for full-service irrigation. This value is established by decree, compact, or other legal document, or by specialized engineering studies.

Water user (see *Customer*).

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

§ 171.105 Does this part apply to me?

This part applies to you if you own or lease land within an irrigation project where we assess fees and collect monies to administer, operate, maintain, and rehabilitate project facilities.

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§ 171.110 How does BIA administer its irrigation facilities?

(a) We administer our irrigation facilities by enforcing the applicable statutes, regulations, Executive Orders, directives, Indian Affairs Manual, the Irrigation Handbook, and other written policies, procedures, directives, and practices to ensure the safe, reliable, and efficient administration, operation, maintenance, and rehabilitation of our facilities. Such enforcement can include refusal or termination of irrigation services to you. Copies of the above listed items may be obtained from the irrigation project serving you.

(b) We will cooperate and consult with you, as appropriate, on irrigation activities and policies of the particular irrigation facility serving you.

§ 171.115 Can I and other irrigators establish representative organizations?

Yes. You and other irrigators may establish a representative organization under applicable law to represent your interests for the particular irrigation facilities serving you.

§ 171.120 What are the authorities and responsibilities of a representative organization?

(a) A legally established organization representing you may make rules, policies, and procedures it may find necessary to administer the activities it is authorized to perform.

(b) An organization must not make rules, policies, or procedures that conflict with our regulations or any of our other written policies, procedures, directives, and manuals.

(c) If this organization collects operation and maintenance assessments and construction assessments on your behalf to be paid to us, it must pay us all your past and current operation and maintenance and construction assessment charges before we will provide irrigation service to you.

§ 171.125 Can I appeal BIA decisions?

(a) You may appeal our decisions in accordance with procedures set out in 25 CFR part 2, unless otherwise prohibited by law.

(b) If you appeal an irrigation bill, you must pay the bill in accordance

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with subpart E before we will provide irrigation service to you. If you prevail on appeal, any overpayment will be refunded to you.

§ 171.130 Who can I contact if I have any questions about these regulations or my irrigation service?

Contact the local irrigation project where you receive service or want to apply for service. If your questions are not addressed to your satisfaction at the local project level, you may contact the appropriate BIA Regional Office.

§ 171.135 Where do I submit written information or requests?

Submit written information to us or make request of us in writing at the irrigation project servicing your farm unit.

§ 171.140 Information collection.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0141. This information collection is specifically found in 25 CFR sections 171.200, 171.225, 171.305, 171.310, 171.405, 171.410, 171.530, 171.550, 171.600, 171.605, 171.610, 171.615, 171.710, 171.715. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Subpart B—Irrigation Service

§ 171.200 How do I request irrigation service from the BIA?

(a) You must request service from the irrigation facility servicing your farm unit.

(b) Your request must contain at least the following information:

- (1) Your full legal name;
- (2) Where you want service;
- (3) The time and date you want service to start;
- (4) How long you want service;
- (5) The rate of water flow you want, if available;
- (6) How many acres you want to irrigate; and

(7) Any additional information required by the project office responsible for providing your irrigation service.

(c) You must request supplemental water in accordance with the project guidelines established by the specific project providing your irrigation service.

§ 171.205 How much water will I receive?

The amount of water you receive will be based on your request, your legal entitlement to water, and the available water supply.

§ 171.210 Where will BIA provide my irrigation service?

(a) We will provide service to your farm unit at a single delivery point that we designate.

(b) At our discretion, we may establish additional delivery points when:

(1) We determine it is impractical to deliver water to your farm unit from a single delivery point;

(2) You agree in writing to be responsible for all costs to establish an additional delivery point;

(3) You pay us our costs prior to our establishing an additional delivery point; and

(4) Any work accomplished under this section does not disrupt our service to other customers without their written agreement.

(c) We may establish your delivery point(s) at a well head.

§ 171.215 What if the elevation of my farm unit is too high to receive irrigation water?

(a) We will not change our service ditch level to provide service to you.

(b) You may install, operate, and maintain your own facilities, at your cost, to provide service to your land:

(1) From a delivery point we designate; and

(2) In accordance with specifications we approve.

§ 171.220 What must I do to my farm unit to receive irrigation service?

You must meet the following requirements for us to provide service:

(a) Put water we deliver to authorized uses;

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(b) Make sure your farm ditch has sufficient capacity to carry the water we deliver; and

(c) Properly operate, maintain, and rehabilitate your farm ditch.

§ 171.225 What must I do to receive irrigation service to my subdivided farm unit?

In order to receive irrigation service, you must:

(a) Provide us a copy of the recorded plat or map of the subdivision which shows us how the irrigation water will be delivered to the irrigable acres;

(b) Pay for any extensions or alterations to our facilities that we approve to serve the subdivided units;

(c) Construct, at your cost, any facilities within your subdivided farm unit; and

(d) Operate and maintain, at your cost, any facilities within your subdivided farm unit.

§ 171.230 What are my responsibilities for wastewater?

(a) You are responsible for your wastewater.

(b) Wastewater may be returned to our facilities, but only at locations we designate, in a manner we approve, and at your cost.

(c) You must not allow your wastewater to flow or collect on our facilities or roads, except at locations we designate and in a manner we approve.

(d) If you fail to comply with this section, we may withhold services to you.

Subpart C—Water Use

§ 171.300 Does BIA restrict my water use?

(a) You must not interfere with or alter our service to you without our prior written authorization; and

(b) You must only use water we deliver for authorized uses. We may withhold services if you use water for any other purpose.

§ 171.305 Will BIA provide leaching service to me?

(a) We may provide you leaching service if:

(1) You submit a written plan that documents how soil salinity limits

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your crop production and how leaching service will correct the problem;

(2) We approve your plan in writing; and

(3) Your irrigation bills are not past due.

(b) Leaching service will only be available during the timeframe established by your irrigation facility.

(c) We reserve the right to terminate this service if we determine you are not complying with paragraph (a) of this section.

§ 171.310 Can I use water delivered by BIA for livestock purposes?

Yes, if we determine it will not:

(a) Interfere with the operation, maintenance, or rehabilitation of our facilities;

(b) Be detrimental to or jeopardize our facilities;

(c) Adversely affect the water rights or water supply; or

(d) Cause additional costs to us that we do not agree to in writing.

Subpart D—Irrigation Facilities

§ 171.400 Who is responsible for structures on a BIA irrigation project?

(a) We may build, operate, maintain, rehabilitate or remove structures, including bridges and other crossings, on our irrigation projects.

(b) We may build other structures for your private use during the construction or extension of an irrigation project. We may charge you for structures built for your private use under this section, and we may require you to maintain them.

(c) If we require you to maintain a structure and you do not do so to our satisfaction, we may remove it or perform the necessary maintenance, and we will bill you for our costs.

§ 171.405 Can I build my own structure or take over responsibility of a BIA structure?

You may build a structure on our irrigation facility for your private use or take responsibility of one of our structures, but only under a written agreement between you and us which:

(a) Relieves us from any future liability or responsibility for the structure;

(b) Relieves us from any future costs incurred for maintaining the structure;

(c) Describes what is granted by us and accepted by you; and

(d) Provides that if you do not regularly use a structure for a period of time that we have determined, or you do not properly maintain and rehabilitate the structure, we will notify you in writing that:

(1) You must either remove it or correct any unsafe condition;

(2) If you do not comply with our notice, we may remove the structure and you must reimburse us our costs; and

(3) We may modify, close, or remove your structure without notice due to an urgency we have identified.

§ 171.410 Can I install a fence on a BIA irrigation project?

Yes. Fences are considered structures and may be installed in compliance with § 171.405.

§ 171.415 Can I place an obstruction on a BIA irrigation project?

No. You may not place obstructions on BIA irrigation projects.

(a) If you do so, we will notify you in writing that you must remove it.

(b) If you do not remove your obstruction in compliance with our notice, we will remove it and we will bill you for our costs.

(c) We can remove your obstruction without notice because of an urgency we have identified.

§ 171.420 Can I dispose of sewage, trash, or other refuse on a BIA irrigation project?

No. Sewage, trash, or other refuse are considered obstructions and must be removed in accordance with § 171.415.

Subpart E—Financial Matters: Assessments, Billing, and Collections

§ 171.500 How does BIA determine the annual operation and maintenance assessment rate for the irrigation facility servicing my farm unit?

(a) We calculate the annual operation and maintenance assessment rate by estimating the following annual costs and then dividing by the total assessable acres for your irrigation facility:

(1) Personnel salary and benefits for the facility engineer/manager and employees under their management or control;

(2) Materials and supplies;

(3) Vehicle and equipment repairs;

(4) Equipment costs, including lease fees;

(5) Depreciation;

(6) Acquisition costs;

(7) Maintenance of a reserve fund available for contingencies or emergency costs needed for the reliable operation of the irrigation facility infrastructure;

(8) Maintenance of a vehicle and heavy equipment replacement fund;

(9) Systematic rehabilitation and replacement of project facilities;

(10) Contingencies for unknown costs and omitted budget items; and

(11) Other costs we determine necessary to properly perform the activities and functions characteristic of an irrigation facility.

(b) Annual operation and maintenance assessment rates may be lowered through the exercise of our discretion when items listed in (a) of this section are adjusted pursuant to our authority under 25 U.S.C. 385, 386a and 389.

(c) If you subdivide your farm unit, you may be subject to a higher annual operation and maintenance assessment rate, which we publish annually in the FEDERAL REGISTER.

(d) At projects where supplemental water is available, the calculation of your annual operation and maintenance assessment rate may take into consideration the total estimated annual amount to be collected for supplemental water deliveries.

§ 171.505 How does BIA calculate my annual operation and maintenance assessment?

(a) We calculate your annual operation and maintenance assessment by multiplying the total assessable acres of your land within the service area of our irrigation facility by the annual operation and maintenance assessment rate we establish for that facility.

(b) We will not assess lands that have been re-classified as either permanently non-assessable (PNA) or temporarily non-assessable (TNA) or lands

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that have been granted an Annual Assessment Waiver.

(c) If your lands are under an approved Incentive Agreement, we may waive your assessment as described in the Incentive Agreement (See § 171.610).

(d) Some irrigation facilities may charge a minimum operation and maintenance assessment. If the irrigation facility serving your farm unit charges a minimum operation and maintenance assessment that is more than your assessment calculated by the method described in subpart (a) of this section, you will be charged the minimum operation and maintenance assessment. We provide public notice of any minimum operation and maintenance assessments annually in the FEDERAL REGISTER (See § 171.565).

§ 171.510 How does BIA calculate my annual operation and maintenance assessment if supplemental water is available on the irrigation facility servicing my farm unit?

(a) For projects where supplemental water is available, and you request and receive supplemental water, your assessment will include two components: a base rate, which is for your per-acre water duty delivered to your farm unit; and a supplemental water rate, which is for water delivered to your farm unit in addition to your per-acre water duty.

(b) We publish base and supplemental water rates annually in the FEDERAL REGISTER. The base and supplemental water rates are established to recover the costs identified in section 171.500(a) of this subpart.

(c) If your project has established a supplemental water rate, and you request and receive supplemental water, we will calculate your total annual operation and maintenance assessment by adding the following two totals:

(1) The total assessable acres of your land within the service area of our irrigation facility multiplied by the annual operation and maintenance assessment rate we establish for that facility; and

(2) The actual quantity of supplemental water you request and we agree to deliver (in acre-feet) times the supplemental water rate established for that facility.

§ 171.515 Who will BIA bill?

(a) We will bill the landowner, unless:

(1) The land is leased under a lease approved by us, in which case we will bill the lessee, or

(2) The landowner(s) is represented by a representative organization that collects annual operation and maintenance assessments on behalf of its members and the representative organization makes a direct payment to us on your behalf.

(b) If you own or lease assessable lands within a BIA irrigation facility, you will be billed for annual operation and maintenance assessments, whether you request water or not, unless otherwise specified in § 171.505(b).

§ 171.520 How will I receive my bill and when do I pay it?

(a) You will receive your bill in the mail at the address of record you provide us.

(b) You should pay your bill no later than the due date stated on your bill.

(c) You will not receive a bill for supplemental water. You must pay us in advance at the supplemental water rate established for you project published annually in the FEDERAL REGISTER.

§ 171.525 How do I pay my bill?

(a) You can pay your bill by:

(1) Personally going to the local office of the irrigation facility authorized to receive your payment during normal business hours;

(2) Depositing your payment in an authorized drop box, if available, at the local office of the irrigation facility; or

(3) Mailing your payment to the address indicated on your bill.

(b) Your payment must be in the form of:

(1) Check or money order in the mail or authorized drop box; or

(2) Cash, check, or money order if you pay in person.

§ 171.530 What information must I provide BIA for billing purposes?

We must obtain certain information from you to ensure we can properly bill, collect, deposit, and account for money you owe the United States. At a minimum, this information is:

(a) Your full legal name;

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- (b) Your correct mailing address; and
- (c) Your taxpayer identifying number.

§ 171.535 Why is BIA collecting this information from me?

(a) As part of doing business with you, we must collect enough information from you to properly bill and service your account.

(b) We are required to collect your taxpayer identifying number under the authority of, and as prescribed in, the Debt Collection Improvement Act of 1996, Public Law 104-134 (110 Stat. 1321-364).

§ 171.540 What can happen if I do not provide this information?

We will not provide you irrigation service.

§ 171.545 What can happen if I don't pay my bill on time?

(a) We will not provide you irrigation service until:

(1) Your bill is paid; or

(2) You make arrangement for payment pursuant to § 171.550 of this part.

(b) If you do not pay your bill prior to the close of business on the 30th day after the due date, we consider your bill past due, send you a notice, and assess you the following:

(1) Interest, as required by 31 U.S.C. 3717. Interest will accrue from the original due date stated on your bill.

(2) An administrative fee, as required by 31 CFR 901.9.

(c) If you do not pay your bill prior to the close of business of the 90th day after the due date, we will assess you a penalty, as required by 31 CFR 901.9(d). Penalties will accrue from the original due date stated on your bill.

(d) We will forward your past due bill to the United States Treasury no later than 180 days after the original due date, as required by 31 CFR 901.1, "Aggressive agency collection activity."

§ 171.550 Can I arrange a Payment Plan if I cannot pay the full amount due?

We may approve a Payment Plan if:

(a) You are a landowner and your land is not leased;

(b) You certify that you are financially unable to make a lump sum payment;

(c) You provide additional information we request, which may include information identified in 31 CFR 901.8, "Collection in installments"; and

(d) You sign our Payment Plan containing terms and conditions we specify.

§ 171.555 What additional costs will I incur if I am granted a Payment Plan?

You will incur the following costs:

(a) An administrative fee to process your Payment Plan, as required by 31 CFR 901.9.

(b) Interest, accrued on your unpaid balance, in accordance with § 171.545.

§ 171.560 What if I fail to make payments as specified in my Payment Plan?

(a) We will discontinue irrigation service until your bill is paid in full;

(b) You will be in default, you will be assessed an administrative fee, and your debt will be immediately forwarded to the United States Treasury in accordance with the Debt Collection Improvement Act of 1996 (Pub. L. 104-134).

(c) You will be ineligible for Payment Plans for the next 6 years.

§ 171.565 How will I know if BIA plans to adjust my annual operation and maintenance assessment rate?

(a) We provide public notice of our proposed rates annually in the FEDERAL REGISTER.

(b) You may contact the irrigation facility servicing your farm unit.

§ 171.570 What is the Federal Register and where can I get it?

(a) The FEDERAL REGISTER is the official daily publication for Rules, Proposed Rules, and Notices of official actions by Federal agencies and organizations, as well as Executive Orders and other Presidential Documents, and is produced by the United States Government Printing Office (GPO).

(b) You can get publications of the FEDERAL REGISTER:

(1) By going on the World Wide Web at <http://www.gpo.gov>;

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(2) By writing to the GPO, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250–7954; or

(3) By calling GPO at (202) 512–1530.

§ 171.575 Can BIA charge me a special assessment?

Yes. We will make every reasonable effort to avoid charging special assessments. However, if we determine that we have a significant uncontrolled cost due to an urgency, we may charge you a special assessment. We will only charge special assessments when there are inadequate project funds available, including any emergency reserve funds held by the project. The special assessment rate will be calculated by dividing the total uncontrolled cost, or some portion of that cost, by the total number of assessable acres. Your individual special assessment will be equal to the special assessment rate multiplied by the number of assessable acres in your farm unit.

Subpart F—Records, Agreements, and Other Matters

§ 171.600 What information is collected and retained on the irrigation service I receive?

We will collect and retain at least the following information as part of our record of the irrigation service we have provided you:

- (a) Your name;
- (b) Delivery point(s) where service was provided;
- (c) Beginning date and time of your irrigation service;
- (d) Ending date and time of your irrigation service; and
- (e) Amount of water we delivered to your farm unit.

§ 171.605 Can I establish a Carriage Agreement with BIA?

(a) We may agree in writing to carry third-party water through our facilities to your lands not served by our facilities if we have determined that our facilities have adequate capacity to do so.

(b) If we determine that carrying water in accordance with paragraph (a) of this section is jeopardizing our ability to provide irrigation service to the

lands we are required to serve, we will terminate the Agreement.

(c) We may enter into an agreement with a third party to provide service through their facilities to your isolated assessable lands.

(d) You must pay us all administrative, operating, maintenance, and rehabilitation costs associated with any agreement established under this section before we will convey water.

(e) We will notify you in writing no less than five days before terminating a Carriage Agreement established under this section.

(f) We may terminate a Carriage Agreement without notice due to an urgency we have identified.

§ 171.610 Can I arrange an Incentive Agreement if I want to farm idle lands?

We may approve an Incentive Agreement if:

(a) You request one in writing at least 90 days prior to the beginning of the irrigation season that includes a detailed plan to improve the idle lands, which contains at least the following:

- (1) A description of specific improvements you will make, such as clearing, leveling, or other activities that will improve idle lands to a condition that supports authorized use of delivered water;
- (2) The estimated cost of the improvements you will make;
- (3) The time schedule for your proposed improvements;
- (4) Your proposed schedule for water delivery, if necessary; and
- (5) Justification for use of irrigation water during the improvement period.

(b) You sign our Incentive Agreement containing terms and conditions we specify.

§ 171.615 Can I request improvements to BIA facilities as part of my Incentive Agreement?

Yes. You may request and we may agree to make improvements as part of your Incentive Agreement that we determine are in the best interest of the irrigation facility servicing your farm unit.

Subpart G—Non-Assessment Status

§ 171.700 When do I not have to pay my annual operation and maintenance assessment?

You do not have to pay your annual operation and maintenance assessment for your land(s) within the service area of your irrigation facility when:

- (a) We grant you an Annual Assessment Waiver; or
- (b) We grant you an Incentive Agreement which may include waiving your annual operation and maintenance assessment; or
- (c) Your land is re-designated as permanently non-assessable or temporarily non-assessable.

§ 171.705 What criteria must be met for my land to be granted an Annual Assessment Waiver?

For your land to be granted an Annual Assessment Waiver, we must determine that our irrigation facilities are not capable of delivering adequate irrigation water to your farm unit. Inadequate water supply due to natural conditions or climate is not justification for us to grant an Annual Assessment Waiver.

§ 171.710 Can I receive irrigation water if I am granted an Annual Assessment Waiver?

No. Water will not be delivered in any quantity to your farm unit if you have been granted an Annual Assessment Waiver.

§ 171.715 How do I obtain an Annual Assessment Waiver?

For your land to be granted an Annual Assessment Waiver, you must:

- (a) Send us a request in writing to have your land granted an Annual Assessment Waiver;
- (b) Submit your request prior to the bill due date for the year for which you are requesting the Annual Assessment Waiver; and
- (c) Receive our approval in writing.

§ 171.720 For what period does an Annual Assessment Waiver apply?

Annual Assessment Waivers are only valid for the year in which they are granted. To obtain an Annual Assessment

Waiver for a subsequent year, you must reapply.

PART 172—PUEBLO INDIAN LANDS BENEFITED BY IRRIGATION AND DRAINAGE WORKS OF MIDDLE RIO GRANDE CONSERVANCY DISTRICT, NEW MEXICO

AUTHORITY: 45 Stat. 312.

§ 172.1 Acreage designated.

Pursuant to the provisions of the act of March 13, 1928 (45 Stat. 312) the contract executed between the Middle Rio Grande Conservancy District of New Mexico and the United States under date of December 14, 1928, the official plan approved pursuant thereto, as modified, and the terms of section 24 of a contract between said parties dated September 4, 1936, dealing among other things with the payment of operation and maintenance and betterment assessments by the United States to the District, and section 24 of a similar contract dated April 8, 1938 executed by the representative of the United States, on this date, it is found that a total of 20,242.05 acres of Pueblo Indian lands of the Pueblos of Cochiti, Santo Domingo, San Felipe, Santa Ana, Sandia and Isleta is susceptible of economic irrigation and cultivation and is materially benefited by the works constructed by said District. This acreage is designated as follows:

Lands with recognized water rights not subject to operation and maintenance or betterment charges by the District and designated as "now irrigated"—	8,847
Lands classified as "newly reclaimed" lands (exclusive of the purchased area)—	11,074.4
Lands classified as newly reclaimed lands (the area recently purchased)—	320.65
Total irrigable area materially benefited—	20,242.05

[22 FR 10641, Dec. 24, 1957. Redesignated at 47 FR 13327, Mar. 30, 1982]

PART 173—CONCESSIONS, PERMITS AND LEASES ON LANDS WITHDRAWN OR ACQUIRED IN CONNECTION WITH INDIAN IRRIGATION PROJECTS

Sec.
173.0 Scope.