

**DEPARTMENT OF THE INTERIOR****Bureau of Indian Affairs****Rate Adjustment for Indian Irrigation Project**

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

**ACTION:** Notice of proposed rate adjustment—San Carlos Irrigation Project—Joint Works, Arizona.

**SUMMARY:** The Bureau of Indian Affairs (BIA) owns and operates the San Carlos Irrigation Project—Joint Works (SCIP–JW) located with the project office in Coolidge, Arizona. 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 adjustment for this project for 2011. This proposed rate has been published separately from the annual rate notice for all BIA's irrigation projects because of the BIA's implementation efforts related to the Arizona Water Settlements Act and this project.

**DATES:** Interested parties may submit comments on the proposed rate adjustment on or before June 1, 2009.

**ADDRESSES:** All comments on the proposed rate adjustment must be in writing and addressed to: John Anevski, Chief, Division of Irrigation, Power and Safety of Dams, Office of Trust Services, Mail Stop 4655–MIB, 1849 C Street, NW., Washington, DC 20240, Telephone (202) 208–5480.

**FOR FURTHER INFORMATION CONTACT:** Bryan Bowker, Project Manager, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723–6216.

**SUPPLEMENTARY INFORMATION:** The first table in this notice provides contact information for individuals who can give further information about the irrigation project covered by this notice. The second table provides the current 2009 and 2010 irrigation assessment rate and the proposed rate for the 2011 irrigation season.

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

In this notice:

*Administrative costs* means all costs we incur to administer the SCIP–JW at the local project level and is a cost factor included in calculating your O&M 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 the SCIP–JW. (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 the SCIP–JW 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 the SCIP–JW. This includes our activities to administer, operate, maintain, and rehabilitate this project 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 (O&M) assessment.

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

*Operation or operating costs* means costs we incur to operate the SCIP–JW 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 30th day after the due date as stated on the bill. Beginning on the 31st day after the due date, we begin assessing additional charges accruing from the due date.

*Rehabilitation costs* means costs we incur to restore the SCIP–JW or its

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 the SCIP–JW 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 the SCIP–JW.

*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 the SCIP–JW or if you have a carriage agreement with this irrigation project.

**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 SCIP–JW, 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 rate. 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 2011 rate for annual irrigation assessments as well as related information about the SCIP–JW.

**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 adjustment into effect for the 2011 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 the SCIP–JW 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 SCIP–JW:

- (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 SCIP–JW?**

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 30th 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 table contains the regional and project/agency contacts for the SCIP–JW.

WESTERN REGION CONTACTS

Allen Anspach, Regional Director  
 Bureau of Indian Affairs, Western Regional Office  
 Two Arizona Center  
 400 N. 5th Street, 12th floor  
 Phoenix, Arizona 85004  
 Telephone: (602) 379-6600

| Project name                                    | Project/agency contacts   |
|---|---|
| San Carlos Irrigation Project Joint Works ..... | Bryan Bowker, Project Manager, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723-6216. |

**What irrigation assessment or charge is proposed for adjustment by this notice?**

The rate table below contains the current rate for SCIP-JW where we

recover costs of administering, operating, maintaining, and rehabilitating them. The table also

contains the proposed rate for the 2011 season.

WESTERN REGION RATE TABLE

| Project name  | Rate category        | Final 2009 rate | Final 2010 rate | Proposed 2011 rate |
|---|----------------------|-----------------|-----------------|--------------------|
| San Carlos Irrigation Project (Joint Works) ....<br>(See Note #1) | Basic per acre ..... | \$21.00         | \$21.00         | \$30.00            |

**Note #1**—The 2010 rate was established by final notice published in the **Federal Register** on April 22, 2009 (Vol. 74, No. 76, page 18402).

**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)**

This rate adjustment will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposed rate adjustment be implemented. This is a notice for rate adjustment at a BIA-owned and operated irrigation project.

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

This rate adjustment is not a significant regulatory action and does not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

**Regulatory Flexibility Act**

This rate adjustment is not a rule for the purposes of the Regulatory Flexibility Act because it establishes “a rule of particular applicability relating to rates.” 5 U.S.C. 601(2).

**Unfunded Mandates Reform Act of 1995**

This rate adjustment does 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 rate adjustments do not have significant “takings” implications. This rate adjustment does not deprive the public, State, or local governments of rights or property.

**Federalism (Executive Order 13132)**

The Department has determined that 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**

This rate adjustment does 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 August 31, 2009.

**National Environmental Policy Act**

The Department has determined that this rate adjustment does 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)).

**Data Quality Act**

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

Dated: April 27, 2009.

**George T. Skibine,**

*Deputy Assistant Secretary for Policy and Economic Development, Office of the Assistant Secretary—Indian Affairs.*

[FR Doc. E9-10038 Filed 4-29-09; 8:45 am]

**BILLING CODE 4310-W7-P**

**DEPARTMENT OF JUSTICE****Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act**

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States v. Miller, Dyer & Co., L.L.C., Chicago Energy Associates, and Whiting Oil and Gas Corp.*, (civ. no. 2:09-cv-00332-DAK), which was lodged with the United States District Court for Utah on April 17, 2009.

This proposed Consent Decree was lodged simultaneously with the Complaint in this matter pursuant to Section 112 of the Clean Air Act, 42 U.S.C. 7412, to resolve alleged violations at the defendants' compressor stations on Indian Lands, in the Uinta Basin, Utah. Under the settlement, the defendants will install air pollution controls on all existing and newly constructed compressor stations in the Uinta Basin. In addition, the defendants will pay a civil penalty of \$142,000 under the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov) or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Miller, Dyer & Co., L.L.C., Chicago Energy Associates, and Whiting Oil and Gas Corp.*, D.J. Ref. 90-5-2-1-09383.

During the public comment period, the Decree may be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice,

Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$23.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. E9-9918 Filed 4-29-09; 8:45 am]

**BILLING CODE 4410-15-P**

**DEPARTMENT OF JUSTICE****Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act**

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States v. Wind River Resources Corp., & Bill Barrett Corp.*, (civ. no. 2:09-cv-00330-PMW), which was lodged with the United States District Court for the district of Utah on April 17, 2009. This proposed Consent Decree was lodged simultaneously with the Complaint in this matter. The Complaint alleges that the Companies installed major emitting sources of volatile organic compounds ("VOCs"), and hazardous air pollutants ("HAPs"), but failed to comply with the Prevention of Significant Deterioration ("PSD") requirements set forth at 42 U.S.C. 7470-7492, and the National Emission Standards for Hazardous Air Pollutants ("NESHAP"), Section 112 of the CAA, 42 U.S.C. 7412, at the defendants' compressor stations on Indian Lands, in the Uinta Basin, Utah. Under the settlement, the defendants will install air pollution controls on all existing and newly constructed compressor stations in the Uinta Basin. In addition, the defendants will pay civil penalties in the amount of \$240,000, and perform Supplemental Environmental Projects valued at \$200,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov)

mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to *United States v. Wind River Resources Corp., & Bill Barrett Corp.*, D.J. Ref. 90-5-2-1-09048.

During the public comment period, the Decree may be examined on the following Department of Justice Web site, [http://www.usdoj.gov/enrd/Consent\\_Decrees.html](http://www.usdoj.gov/enrd/Consent_Decrees.html). A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood ([tonia.fleetwood@usdoj.gov](mailto:tonia.fleetwood@usdoj.gov)), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of \$33.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. E9-9920 Filed 4-29-09; 8:45 am]

**BILLING CODE 4410-15-P**

**DEPARTMENT OF JUSTICE****Notice of Public Comment Period for Proposed Consent Decree Under the Clean Air Act**

Under 28 CFR 50.7, notice is hereby given that, for a period of 30 days, the United States will receive public comments on a proposed Consent Decree in *United States v. Dominion Exploration & Production, INC., and XTO Energy*, (civ. no. 2:09-cv-00331-SA), which was lodged with the United States District Court for the district of Utah on April 17, 2009. This proposed Consent Decree was lodged simultaneously with the Complaint in this matter pursuant to Section 112 of the Clean Air Act, 42 U.S.C. 7412, to resolve alleged violations at the defendants' compressor stations on Indian Lands, in the Uinta Basin, Utah. Under the settlement, the defendants will install air pollution controls on all existing and newly constructed compressor stations in the Uinta Basin. In addition, the defendants will pay a civil penalty of \$250,000 under the Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Decree.