

§ 125.6

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specified time shall have the effect of approval of the application.

(c) *Appeal.* Approval of an application by the Area Director shall be final and conclusive. Disapproval of an application may be appealed to the Commissioner pursuant to the administrative review procedures of 25 CFR part 2, and the Commissioner's determination shall be subject to the administrative appeal procedures of 43 CFR part 4, subpart D. Approval of an application on administrative appeal or pursuant to judicial review shall relate back to the date of the Area Director's decision.

(d) *Prior applications.* (1) Eligibility for Sioux Benefits will be determined by an applicant's status as of the date of application, except that where an applicant's application was disapproved prior to the promulgation of these regulations under the provisions of previous Bureau regulations or policies, the applicant may reapply and, if he/she so requests, have his/her eligibility determined based upon his/her status as of the date of such prior application, which shall be deemed to be the date of the application, but nothing in this subsection shall be construed to allow any application to be made on behalf of a deceased Sioux Indian whose prior application was disapproved.

(2) Unallotted Sioux Indians of the Pine Ridge and Rosebud Reservations whose applications were submitted and disapproved prior to the termination of payment of Sioux benefits on each respective reservation may reapply for benefits under this subsection within one year of the effective date of this part and receive payment if their eligibility under §125.4(b) is established as of the date of such initial application.

(e) *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. 3507 and assigned clearance number 1076-0004. The information is being collected to provide information necessary for the Bureau to determine eligibility for Sioux benefits. This information will be used to grant statutory benefits. The obliga-

tion to respond is required to obtain a benefit.

[46 FR 36136, July 14, 1981; 46 FR 38074, July 24, 1981. Redesignated at 47 FR 13327, Mar. 30, 1982]

§125.6 Administration.

(a) No payment of Sioux benefits may be made unless an application therefor has been made and approved during the lifetime of the applicant as provided by Federal law.

(b) Payment of Sioux benefits shall be made in accordance with a budget or plan for expenditure submitted by the applicant and approved by the Agency Superintendent.

(c) The Commissioner shall annually compute the commuted monetary value of Sioux benefits to be effective on October 1 of that year and notify the affected tribes and Bureau agencies of such determination.

(d) The Area Director shall annually notify both the Cheyenne River Sioux Tribe and the Commissioner of the number of Sioux benefits remaining available to be paid under the provisions of the Act of June 18, 1934, c. 576, §14, 48 Stat. 987, 25 U.S.C. 474.

§125.7 Information collection.

The information collection requirements contained in §§125.4 and 125.5 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076-0004. The information is being collected to solicit information necessary to make a determination of eligibility for Sioux benefits. The information will be used to determine eligibility for payment. Response is required to obtain a benefit.

[53 FR 21995, June 13, 1988]

PART 134—PARTIAL PAYMENT CONSTRUCTION CHARGES ON INDIAN IRRIGATION PROJECTS

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- 134.1 Partial reimbursement of irrigation charges; 5 percent per annum of cost of system, June 30, 1920.
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134.6 "Owner" defined.

134.7 Modifications.

AUTHORITY: Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385. Interpret or apply sec. 1, 41 Stat. 409; 25 U.S.C. 386.

SOURCE: 22 FR 10643, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 134.1 Partial reimbursement of irrigation charges; 5 percent per annum of cost of system, June 30, 1920.

In pursuance of the act of February 14, 1920 (41 Stat. 409; 25 U.S.C. 386), regulations governing partial payment of construction charges on Indian irrigation projects, with the exception of certain ones mentioned therein, where approved by the Department June 21, 1920, and require that each owner of irrigable land under any irrigation system constructed for the benefit of Indians under provisions of law requiring reimbursement of the cost of such system and to which land, water for irrigation purposes can be delivered from such system, shall pay, on or before November 15, 1920, a sum equal to 5 percent of the per acre cost, as of June 30, 1920, of the construction of the system under which such land is situated. The per acre cost of a given system as of June 30, 1920, shall be determined by dividing the total amount expended for construction purposes on such system up to that day by the total area of land to which water for irrigation purposes can be delivered on that date; and on November 15 of each year following the year 1920, until further notice, the land owners, as therein prescribed, shall pay 5 percent of the per acre construction cost as of June 30, of the current year, such per acre cost to be determined by dividing the cost of the system to June 30 of that year by the total area of land to which water for irrigation purposes can be delivered from the system on that date. Provision is contained that no payments shall be required under the regulations in behalf of lands still in process of allotment or prior to the issuance of the first or trust patent therefor, nor for lands reserved for school, agency, or other administrative purposes where the legal title still remains in the United States.

§ 134.2 Landowners financially unable to pay.

Considerable difficulty has been encountered in collecting charges under the regulations in this part owing to the fact that Indians have been financially unable to pay the charges, the result being that the construction charges have accrued against the lands and in cases where the land is sold for the benefit of the allottee or his heirs under the regulations, the purchaser is to pay the accrued and future irrigation charges which make it difficult in some instances, to sell the land at as favorable terms as might otherwise be secured.

§ 134.3 Period for payments extended.

Furthermore, in recent legislation dealing with specific projects in the Bureau and also all reclamation projects the policy has been to extend the payment of such charges over a longer period of years.

§ 134.4 Annual payment reduced.

In view of these conditions the regulations governing this matter are hereby modified so as to distribute the unaccrued installments over a period of time so that 2½ percent of the total amount yet due shall be due and payable on November 15 of each year until further notice. You shall accordingly ascertain the per acre cost after deducting the amount of the accrued charges and take 2½ percent of that amount and a like sum each year so that the amount of the annual installments will be the same each year. Superintendents are obligated to submit all proposed lists of sales involving allotments containing irrigable allotments to the project or supervising engineer for checking, as to the irrigable acreage and amounts of unpaid construction, operation, and maintenance charges against such allotments. Each sale forwarded to the Bureau for action shall be accompanied by contract executed on Form 5-462b where irrigable acreage is involved and after approval thereof a copy of contract on said form shall be sent to the project engineer for his records and the charges paid by the purchaser shall be turned over to the disbursing agent for credit and deposit as instructed in the next paragraph.

The regulations in this part shall not apply to lands in the Wapato project, on the Yakima Indian Reservation, nor to the irrigation projects on the Blackfeet, Fort Peck, Flathead, and Crow Reservations, Montana, for which special regulations have been issued nor to the Fort Hall Reservation, Idaho, or the San Carlos project, Arizona.¹

CROSS REFERENCES: For special regulations applying to San Carlos project, see part 137 of this chapter. For further information concerning Form 5-462b, see part 159 of this chapter.

§ 134.4a Assessment and collection of additional construction costs.

(a) Upon the completion of the construction of an Indian irrigation project, or unit thereof, subsequent to the determination of the partial per acre construction assessment rate which was fixed prior to July 1, 1957, pursuant to § 134.4 the Secretary of the Interior or his authorized representative shall determine such additional construction cost and distribute that cost on a per acre basis against all of the irrigable lands of the project, or unit thereof, and $\frac{1}{40}$ th of such per acre additional construction cost thus determined shall be assessed and collected annually from the non-Indian landowner of the project, or unit, thereof. The first installment shall be due and payable on November 15 of the year following the completion of such additional construction work or, if such additional construction work on the project, or unit thereof, has been completed prior to July 1, 1957, and the per acre annual rate determined, the first installment of the additional construction cost to be repaid by such non-Indian landowners shall be due and payable on November 15, 1958. This annual per acre rate shall be in addition to, and run concurrently with, the per acre construction rate assessed annually under § 134.4.

(b) Project lands in Indian ownership are not subject to assessment for their proportionate share of the per acre construction cost of the project, or

¹The special regulations for Wapato, Fort Peck, and Flathead, were not codified. Operations of the Blackfeet project were discontinued by the Bureau, July 20, 1938, effective September 30, 1933.

unit thereof, until after the Indian title to the land has been extinguished. At that time the total annual per acre assessment rate against non-Indian lands of the project, or unit thereof, shall be assessed against the former Indian lands for each and every acre of irrigable land to which water can be delivered through the project works, beginning on November 15 of the year following the extinguishment of the Indian title to the land and on November 15 of each year thereafter over a forty year period. In cases where the Indian title to project land was extinguished prior to July 1, 1957, the assessment rate shall be due and payable on November 15, 1958.

§ 134.5 Payments to disbursing officer.

Payments under this part shall be made to the disbursing officer for the supervising engineer of the Indian Irrigation Service having jurisdiction over the irrigation system under which the land for which payment is made may lie. The sum so collected will then, after proper credit has been made to the land for which collected, be deposited in the Treasury of the United States to the credit of the respective funds used in constructing irrigation systems toward which reimbursement shall have been made.

§ 134.6 "Owner" defined.

The word "owner" as used in this part shall be construed to include any person, Indian or white, or any firm, partnership, corporation, association, or other organization to whom title to the land capable of irrigation, as provided in the act of February 14, 1920 (41 Stat. 409; 25 U.S.C. 386), has passed, either by fee or trust patent, or otherwise.

§ 134.7 Modifications.

The act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a), cancelled all irrigation assessments for construction costs against lands in Indian ownership which were unpaid at that date and deferred all future assessments for construction costs until the Indian title to the land shall have been extinguished.