

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

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AUTHORITY: 52 Stat. 193; 25 U.S.C. 390.

SOURCE: 22 FR 10642, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 173.0 Scope.

The regulations in this part are promulgated governing the granting of concessions, business, agricultural and grazing leases or permits on reservoir sites, reserves for canals or flowage areas, and other lands withdrawn or otherwise acquired in connection with the San Carlos, Fort Hall, Flathead and Duck Valley or Western Shoshone irrigation projects.

§ 173.1 Terms used.

When used in this part "Secretary" refers to the Secretary of the Interior; "project" to the Federal Indian irrigation project on which concession, lease or permit is granted, and "project engineer" to the engineer in charge of said project.

§ 173.2 Project engineer's authority.

The project engineer is the official charged with the responsibility for the enforcement of this part. He is vested with the authority to issue temporary concession permits to applicants for periods not to exceed 30 days. All except temporary permits shall become effective when approved by the Secretary.

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§ 173.3 Enforcement.

The project engineer shall enforce these and all project regulations now or hereafter promulgated by the Secretary. Willful violation or failure to comply with the provisions of this part and all proper orders of the project engineer shall be cause for revocation of the permit by the Secretary who shall be the judge of what constitutes such violation. The project engineer may suspend any permit for cause. The project engineer shall, immediately after suspending a permit, submit to the Secretary through the Commissioner of Indian Affairs a detailed report of the case, accompanied by his reasons for the action and his recommendations, for final action by the Secretary.

§ 173.4 Permits subject to existing and future rights-of-way.

Use by the permittee of any land authorized under this part shall be subject to the right of the Secretary to establish trails, roads and other rights-of-way including improvements thereupon or through the premises, and the right to use same by the public. No interference shall be permitted with the continued use of all existing roads, trails and other rights-of-way and improvements thereon.

§ 173.5 Plans, approval thereof.

No building or other structure shall be erected by permittee except in accordance with plans, specifications and locations approved by the project engineer. All premises and appurtenances shall be kept in a sanitary, safe and slightly condition.

§ 173.6 Stock grazing.

Permittees may graze upon lands covered by such permits, such stock as may be required in connection with the purposes for which the permit is issued subject to such restrictions and limitations as may be prescribed by the project engineer.

§ 173.7 Permits, transferable.

Permits may be transferred only with the approval of the Secretary.

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§ 173.8 Applications.

All applications for permits must be made on the approved form. The project engineer will furnish copies of this form upon request. All applications must be executed in triplicate.

§ 173.9 Bonds.

Except in cases of temporary concession permits, leases, permits, and traders' licenses granted under parts 166, 162, and 140 of this chapter, which are governed by the requirements of those parts, the applicant shall within 60 days after approval of the application furnish a surety bond for the faithful performance of the terms of the permit in an amount equal to the total sum accruing during the period of the permit. Such bond shall be executed by an approved surety company, or by at least three individual sureties, whose individual unencumbered assets are equal to double the amount of the bond. In the case of temporary concession permits, the permittee shall deposit at the time of receiving the permit, a sum equal to twice the rental, which sum shall, upon the expiration of the permit, be refunded to the permittee, if all the terms and conditions of the permit have been met; otherwise, such sum shall be retained as liquidated damages.

§ 173.10 Payments.

Each permittee shall pay at the time of receiving the permit the first year's charge as fixed therein. When a permit extends over a period of years, the next and succeeding payments shall be due and payable annually in advance. The full amount accruing under a temporary permit shall be paid at the time the application is filed.

§ 173.11 Supervision of permittees' rates.

All rates or charges collected by a permittee for services rendered by the permittee in the operation of the concession granted under a permit, must be submitted through the project engineer to the Secretary for approval. Copies of the approved rate schedule shall be posted in at least two conspicuous places on the premises. Approved rates may not be changed without first obtaining in the same manner

a change in the rate schedule. The Secretary shall have the right to readjust rates charged from time to time and to amend or change any permit issued. Failure to comply with the approved rates automatically makes the permit subject to cancellation.

§ 173.12 Services from project.

When the facilities of the project make it possible to supply water for domestic purposes, electricity or any other type of service to the permittee, the cost of connecting the project facilities shall be borne by the permittee and the work must be in accordance with standard practices and accepted by the project engineer, and as provided for in project regulations. All services rendered by the project to the permittee shall be paid for at the existing or modified schedule of rates; or if no schedule has been approved, at a rate to be approved by the Secretary which will reasonably reimburse the project for the cost of such services.

§ 173.13 Permit not a lease.

Any permit issued under this part does not grant any leasehold interest nor cover the sale, barter, merchandising, or renting of any supplies or equipment except as therein specified. Any permittee who engages in trade with the Indians must also apply for and receive a trader's license as provided by part 140 of this chapter.

§ 173.14 Further requirements authorized.

The project engineer is authorized to incorporate into any proposed permit to meet the needs of any particular case, subject to the approval of the Secretary, such further special requirements as may be agreed upon by him and the applicant, such requirements to be consistent with the general purposes of this part.

§ 173.15 Permittee subject to State law.

The holder of any permit issued under this part shall be subject to and abide by the laws and regulations of the United States and State laws if applicable to the conduct of the particular business or activity conducted by the permittee. Violations of this section shall render the permit void

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but shall not release the permittee from any obligations arising thereunder.

§ 173.16 Reserved area, Coolidge Dam.

No permit for any commercial business or other activity (except boating concessions confined to the Soda Spring Canyon) shall be issued to any applicant to operate within a radius of three-fourths of a mile from the center of the Coolidge Dam, Arizona.

§ 173.17 Agricultural and grazing permits and leases.

(a) Permits or leases may be granted after the lands set forth in §173.0 have been classified as to use and then only for the purpose for which the land is classified. Permits for grazing lands suitable for division into range units shall be granted in accordance with part 166 of this chapter; and agricultural lands and all other grazing lands shall be leased in accordance with part 166 of this chapter.

(b) Lands for which leases or permits are granted pursuant to the terms and conditions of this part shall not be eligible for benefit payments under the provisions and conditions of the Crop Control and Soil Conservation Act of April 27, 1935 (49 Stat. 163; 16 U.S.C. 590a), as amended by the act of February 29, 1936 (49 Stat. 1148; 16 U.S.C. 590g), and subsequent amendatory acts.

§ 173.18 Term and renewal of permits.

No concession granted under the provisions of this part shall extend for a period in excess of 10 years. An application for the renewal of a lease, permit, or concession permit shall be treated in the same manner as an original application under this part. Should there be an application or applications other than the renewal application for a permit covering the same area, the renewal application may, if the applicant has met all the requirements of the expiring permit and has been a satisfactory permittee, be given preferential consideration for the renewal of the permit should the applicant meet the highest and most satisfactory offer contained in the several applications.

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§ 173.19 Improvements.

Title to improvements constructed on the premises by the permittee shall be fixed and determined by the terms of the permit.

§ 173.20 Revocation of permits.

Any permit issued pursuant to this part may be revoked at any time within the discretion of the Secretary. Agricultural and grazing leases dealt with in §173.17 shall be subject to cancellation as provided for in the respective parts 162 and 166 of this chapter, and the conditions of the instruments executed pursuant thereto.

§ 173.21 Notice to vacate.

A permittee shall within 10 days after notification in writing of the cancellation of his permit by the Secretary, vacate the premises covered by the said permit. Any person occupying lands dealt with in the act of April 4, 1938 (52 Stat. 193) without an approved permit or lease shall be notified in writing by the project engineer of the requirements of this part and that for the failure of such person to comply with these requirements and receive a permit or lease within 60 days after receipt of the written notice shall constitute a willful violation of this part, and the project engineer shall submit promptly to the Commissioner of Indian Affairs a detailed report concerning the case, together with recommendations looking to the taking of appropriate legal action to remove such person from the area and to the collection of such funds to compensate for any use made of the property or damages suffered thereto.

§ 173.22 Disposition of revenue.

Funds derived from concessions or leases under this part except those so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be available for expenditure under existing law in the operation and maintenance of the irrigation project on which collected and as provided for in part 161 of this chapter. Funds so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not

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been compensated, shall be deposited to the credit of the proper tribe.

§ 173.23 Organized tribes.

Concessions and leases on tribal lands withdrawn or reserved for the purposes specified in the act of April 4, 1938 (52 Stat. 193) and dealt with in this part, of any Indian tribe organized under section 16 of the act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476) for which the tribe has not been compensated shall be made by the organized tribe pursuant to its constitution or charter: *Provided*, No lease or concession so made shall be inconsistent with the primary purpose for which the lands were reserved or withdrawn.

PART 175—INDIAN ELECTRIC POWER UTILITIES

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AUTHORITY: 5 U.S.C. 301; sec. 2, 49 Stat. 1039-1040; 54 Stat. 422; sec. 5, 43 Stat. 475-476; 45 Stat. 210-211; and sec. 7, 62 Stat. 273.

SOURCE: 56 FR 15136, Apr. 15, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 175.1 Definitions.

Appellant means any person who files an appeal under this part.

Area Director means the Bureau of Indian Affairs official in charge of a designated Bureau of Indian Affairs Area, or an authorized delegate.

Customer means any individual, business, or government entity which is provided, or which seeks to have provided, services of the utility.

Customer service means the assistance or service provided to customers, other than the actual delivery of electric power or energy, including but not limited to such items as: Line extension, system upgrade, meter testing, connections or disconnection, special meter-reading, or other assistance or service as provided in the operations manual.

Electric power utility or Utility means that program administered by the Bureau of Indian Affairs which provides for the marketing of electric power or energy.

Electric service means the delivery of electric energy or power by the utility to the point of delivery pursuant to a service agreement or special contract. The requirements for such delivery are set forth in the operations manual.

Officer-in-Charge means the individual designated by the Area Director