



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

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Rate Adjustments for Indian Irrigation Projects

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

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. The BIA proposes to adjust the irrigation operation and maintenance (O&M) assessment rate at Duck Valley Irrigation Project (DVIP). We request your comments on the proposed rate adjustment.

DATES: Interested parties may submit comments on the proposed rate adjustments on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: All comments on the proposed rate adjustments must be in writing. You may send comments via email to comments@bia.gov. Please reference “Rate Adjustment for Duck Valley Irrigation Project” in the subject line. Or you may submit comments to the Program Specialist, Division of Water and Power, Office of Trust Services, 2021 4th Avenue North, Billings, Montana 59101.

FOR FURTHER INFORMATION CONTACT: Jonathan Cody, Irrigation Engineer, BIA Western Regional Office, (480) 235-3848.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rate Adjustment was published in the *Federal Register* on February 8, 2024 (89 FR 8707) to propose adjustments to the irrigation assessment rates at several BIA irrigation projects. After

further review and coordination with the Shoshone-Paiute Tribes, we decided to adjust the proposed rate assessment for DVIP from \$5.30 to \$11.00 per acre. The first table in this notice provides contact information for individuals who can give further information about DVIP. The second table provides the proposed rate for calendar year (CY) 2025.

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 are 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 also* “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 whom or 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* mean 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 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 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, leases, or uses land as authorized by the Tribe 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 mean 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 mean 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 irrigate land by permit or lease, as authorized by the Tribe, within the assessable acreage of DVIP.

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

You can contact the DVIP. Please use the table in the **SUPPLEMENTARY INFORMATION** section to contact the regional or local office where the project is located.

Why are you publishing this notice?

We are publishing this notice to inform you that we propose to adjust our irrigation assessment rate for DVIP. DVIP is a federally-owned irrigation project, which is operated and maintained by the Shoshone-Paiute Tribes of the Duck Valley Reservation under a self-governance compact. The irrigation project is located in Elko County, Nevada and Owyhee County, Idaho. 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 proposed 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 CY 2025.

How do you calculate irrigation rates?

Pursuant to the self-governance compact, we calculate annual irrigation assessment rates in accordance with 25 CFR part 171.500 by estimating the annual costs of DVIP operation and maintenance and then dividing by the total assessable acres for DVIP. The result of this calculation 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) Personnel 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?

Under the self-governance compact and applicable Federal law, BIA bills and collects DVIP's annual O&M assessment directly from the Shoshone-Paiute Tribes. The Shoshone-Paiute Tribes are responsible for billing and collecting the annual O&M assessment from persons who irrigate land by permit or lease within the assessable acreage of the DVIP. You should pay your bill by the due date stated on your bill.

What information must I provide for billing purposes?

The BIA billing and collection process for DVIP is established by the self-governance compact and related authorities. BIA is not involved in the billing and collection process between the Shoshone-Paiute Tribes and the persons who irrigate land by permit or lease within the assessable acreage of the DVIP. The Shoshone-Paiute Tribes are required to provide us with the following information for billing purposes:

- (1) Full legal name;
- (2) Correct mailing address; and
- (3) Taxpayer identification number.

Why is BIA collecting the Shoshone-Paiute Tribes' taxpayer identification number?

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

If the Shoshone-Paiute Tribes allow the annual bill owed to BIA to become past due, could this affect my water delivery?

Yes. 25 CFR 171.545(a) states: "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." If we do not receive payment before the close of business on the 30th day after

the due date stated on the bill, we will send a past due notice to the Shoshone-Paiute Tribes. This past due notice will have additional information concerning the Shoshone-Paiute Tribes' rights. We will consider the past due notice as delivered no later than five business days after the day we mail it. We follow the procedures provided in 31 CFR 901.2, "Demand for Payment," when demanding payment of the Shoshone-Paiute Tribes past due bill.

Are there any additional charges to the Shoshone-Paiute Tribes if it is late paying the bill?

Yes. We are required to assess interest, penalties, and administrative costs on past due bills in accordance with 31 U.S.C. 3717 and 31 CFR 901.9. The rate of interest is established annually by the Secretary of the United States Treasury (Treasury) and accrues from the date the bill is past due. If the bill becomes more than 90 days past due, the Shoshone-Paiute Tribes will be assessed a penalty charge of no more than six percent per year, which accrues from the date the bill became past due. Each time we try to collect the past due bill, the Shoshone-Paiute Tribes will be charged an administrative fee of \$12.50 for processing and handling.

What else will happen to the Shoshone-Paiute Tribes' past due bill?

If the Shoshone-Paiute Tribes do not pay its bill or make payment arrangements to which we agree, we are required to transfer the past due bill to Treasury for further action. Pursuant to 31 CFR 285.12, bills that are 120 days past due will be transferred to Treasury.

Who can I contact for further information?

The contact table below contains the regional and project/agency contacts for DVIP.

Western Region Contacts
Jessie Durham, Regional Director, Bureau of Indian Affairs, Western Regional Office, 2600 North Central Avenue, 4th Floor Mailroom, Phoenix, AZ 85004. Telephone: (602) 379-6600.

Duck Valley Irrigation Project	Phaline Conklin, Superintendent, (Project O&M compacted to Shoshone-Paiute Tribes under PL 93-638), 2719 Argent Avenue, Suite 4, Gateway Plaza, Elko, NV 89801. Telephones: Superintendent (775) 738-5165; Pawan Upadhyay, Tribal Water Resources Director (208) 759-3100 Ext. 1228.
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What irrigation assessments or charges are proposed for adjustment by this notice?

The rate table below contains the final CY 2024 rate for DVIP, where we recover costs of administering, operating, maintaining, and rehabilitating the project. The table also contains the proposed CY 2025 rate.

Western Region Rate Table			
Project Name	Rate Category	Final 2024 Rate	Proposed 2025 Rate
Duck Valley Irrigation Project	Basic per acre	\$5.30	\$11.00

Consultation and Coordination with Tribal Governments (Executive Order 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this notice under the Department’s consultation policy and under the criteria of Executive Order 13175 and have determined there to be substantial direct effects on federally recognized Tribes because the irrigation projects are located on or associated with Indian reservations. 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 proposed rate adjustments are not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Regulatory Planning and Review (Executive Order 12866)

These proposed 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 proposed 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 proposed 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. They do 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)

These proposed rate adjustments do not effect a taking of private property or otherwise have “takings” implications under Executive Order 12630. The proposed rate adjustments do not deprive the public, State, or local governments of rights or property.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, these proposed rate adjustments do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This notice complies with the requirements of Executive Order 12988. Specifically, in issuing this notice, 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 proposed 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 (OMB) under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076-0141 and expires March 31, 2026.

National Environmental Policy Act

The Department has determined that these proposed 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)), pursuant to 43 CFR 46.210(i). In addition, the proposed rate adjustments do not present any of the 12 extraordinary circumstances listed at 43 CFR 46.215.

Bryan Newland,

Assistant Secretary – Indian Affairs

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