

# code of federal regulations

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**Indians**

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**Revised as of April 1, 1982**

**CONTAINING  
A CODIFICATION OF DOCUMENTS  
OF GENERAL APPLICABILITY  
AND FUTURE EFFECT**

**AS OF APRIL 1, 1982**

*With Ancillaries*

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vided in this part shall be paid by the landowners to the United States, on or before November 15 of each year commencing with the calendar year 1951.

**§ 135.22 Penalty.**

To all assessments not paid on the due date there shall be added a penalty of one-half of one percent per month or fraction thereof, from the due date so long as the delinquency continues.

**§ 135.23 Refusal of water delivery.**

The right is reserved to refuse the delivery of water to any landowner in the event of default in the payment of assessments, including penalties on account of delinquencies.

**PART 136—FORT HALL INDIAN IRRIGATION PROJECT, IDAHO**

**Sec.**

- 136.1 Repayment contracts.
- 136.2 Construction costs.
- 136.3 Repayment of construction costs.

**AUTHORITY:** Sec. 9, 46 Stat. 1063.

**SOURCE:** 22 FR 10645, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**§ 136.1 Repayment contracts.**

A rehabilitation program was established on the Fort Hall Unit of the Fort Hall Project in 1936. Based upon the estimated construction costs, contracts were signed by all non-Indian landowners within the project, including such landowners within the Little Indian Unit, now a part of the Fort Hall Unit. Under the terms of their contracts, the landowners agreed to repay to the Government their pro rata share, on an acreage basis, of all expenditures for construction and other necessary improvements for carrying out the approved program, payments not to exceed \$7.50 per acre, based upon an estimated expenditure of \$450,000.00 for a project then considered as covering approximately 60,000 acres.

**§ 136.2 Construction costs.**

The program of rehabilitation has now been completed at a cost of \$419,186.52. This amount, chargeable

on an equal per acre basis against 60,000 acres, amounts to a rate of \$6.986 per acre, which rate is hereby determined to be the per acre cost to be repaid to the United States under the 1936 contracts.

**§ 136.3 Repayment of construction costs.**

Under the terms of the contracts, the landowners agreed to repay the construction cost in forty (40) equal annual installments. Therefore, the annual per acre installment is hereby fixed at seventeen and one-half cents (17½ cents) per acre, due and payable on December 1st of each year, the first payment being due on December 1, 1955. Under section 4 of the repayment contracts of the landowners and the act of March 10, 1928 (45 Stat. 210), the charges remain a lien against the lands until paid.

**PART 137—REIMBURSEMENT OF CONSTRUCTION COSTS, SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA**

**Sec.**

- 137.1 Water supply.
- 137.2 Availability of water.
- 137.3 Construction charges.
- 137.4 Future charges.
- 137.5 Construction costs limited.
- 137.6 Power development.
- 137.7 Private ownership defined.
- 137.8 Indian lands excluded.

**AUTHORITY:** Sec. 5, 43 Stat. 476.

**SOURCE:** 22 FR 10645, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**§ 137.1 Water supply.**

The engineering report dealt with in section 1 of the act of June 7, 1924 (43 Stat. 475) and other available records show that the storage capacity of the San Carlos reservoir created by the Coolidge Dam and the water supply therefor over a period of years will provide for the irrigation of only 80,000 acres of lands in Indian and public or private ownership within the San Carlos irrigation project, the balance of the water supply needed for the additional 20,000 acres of the project to be provided for by recaptured and return flow water and by means of

pumping the underground supply. The cost of providing the proposed supply and of operating the works for this latter acreage to be equally distributed over the entire 100,000 acres of the project regardless of where the works are placed and operated.

#### § 137.2 Availability of water.

Pursuant to section 3 of the act of June 7, 1924 (43 Stat. 475), requiring the Secretary of the Interior by public notice to announce when water is actually available for lands in private ownership under the project and the amount of the construction charges per irrigable acre against the same which charges shall be payable in annual installments as provided for therein, this public notice, of which § 137.1 is made a part hereof, is hereby given:

The date when a reasonable water supply is actually available for lands in private ownership under the San Carlos irrigation project is hereby declared to be the 1st day of December 1932.

#### § 137.3 Construction charges.

Each acre of land in private ownership of said project is hereby charged with \$95.25 of construction cost assessable thereto at the date hereof (Dec. 1, 1932), which sum is based upon 50,000 acres of such privately owned lands, making a total charge or assessment due from the owners thereof of \$4,762,250 on this date (Dec. 1, 1932), excluding the cost of operation and maintenance for the calendar year of 1933 which may be carried into construction cost as provided for by section 3 of the act of June 7, 1924 (43 Stat. 476), and also excluding interest at the rate of 4 percent which is charged against such lands by said act. Of the 50,000 acres constituting the lands in private ownership within the said project only 46,107.49 acres have at this date (Dec. 1, 1932) actually been designated as coming within the project. Should this present designated area be not increased within a reasonable time herefrom and prior to the due date of the first installment of the charge fixed in this section, namely, on December 1, 1935, so as to bring the total designated area up to

the 50,000 acres, the per acre charge fixed in this section shall be proportionately increased against the then designated area so as to assure reimbursement of the total indebtedness due the Government by the owners of the lands in private ownership from the lesser designated acreage.

#### § 137.4 Future charges.

The payment of said construction cost and costs of future operation and maintenance of said project as provided for in said section 3 of the act of June 7, 1924 (43 Stat. 476), as supplemented or amended and such contingent project liabilities which may be incurred in accordance with the provisions of said repayment contract shall be made in accordance with the provisions of said act of June 7, 1924, as supplemented or amended and the repayment contract by and between the San Carlos irrigation and drainage district and the Secretary of the Interior bearing date of June 8, 1931; the said construction cost incurred subsequent to this public notice assessable against the lands in private ownership and costs of operation and maintenance assessed against such privately owned lands within the project for the first year after this public notice to be included in the construction cost and such contingent project liabilities which may be incurred in accordance with provisions of the repayment contract shall also be repaid to the Government pursuant to the terms of said act of June 7, 1924, as supplemented or amended, and the repayment contract and this public notice.

#### § 137.5 Construction costs limited.

The repayment contract<sup>1</sup> with the San Carlos irrigation and drainage district, page 13 thereof, contains the following:

In accordance with the foregoing the costs of the San Carlos project as fixed by the public notice to be issued as aforesaid, unless further sums shall be agreed to by the Secretary of the Interior and the district after the execution of this instrument, may amount to but shall not exceed the sum of \$9,556,313.77, except that said total

<sup>1</sup> Contract available at the Bureau of Indian Affairs, Washington, D.C.

may be exceeded by the inclusion of any sums expended to safeguard the project as hereinabove provided for, and any sums expended on account of contingent liabilities as in the next paragraph hereof provided.

The foregoing and subsequent statements of project costs, the district's shares of which are to be repaid hereunder, unless otherwise provided by Congress more favorably to the lands of the project, may be increased by the addition of sums not now fixed as project charges but which possibly constitute contingent project liabilities incurred after the date of the San Carlos Act of June 7, 1924 (43 Stat. 476), or incurred on account of the Florence-casa Grande project, and so may become project charges by the judgment of courts of competent jurisdiction or of other proper authority.

The limitations therein fixed has approximately been reached, there remaining but \$32,815.02 yet to be expended on project works before reaching that limitation. Upon the expenditure of this additional sum there shall be no further expenditures of funds for construction, operation and maintenance of the San Carlos project so far as the private lands are concerned until the San Carlos irrigation and drainage district shall, through appropriate action, authorize pursuant to the terms of the said repayment contract such additional expenditures. This limitation does not apply to project expenditures for the extension of the distributing and pumping system regardless of where they may arise. This class of expenditures being excepted from the limitation on expenditures contained in the said repayment contract by section 14, page 10, thereof, which section is known as the "Equalization of Expenditures."

**§ 137.6 Power development.**

The cost of the power development at the Coolidge Dam is hereby fixed at \$735,000. The net revenues derived from the operation of this power development shall be disposed of as required by the terms and conditions of the act of March 7, 1928 (45 Stat. 210) as supplemented or amended.

**§ 137.7 Private ownership defined.**

The term "private ownership" used in this public notice includes all lands of the San Carlos irrigation project that have or may be designated by the Secretary of the Interior that are situated outside of the boundaries of the Gila River Indian Reservation.

**§ 137.8 Indian lands excluded.**

This public notice, with the exception of that part dealing with payment in advance each year of operation and maintenance charges against lands in Indian ownership operated under lease, does not apply in so far as payments are concerned to Indian lands within the project. The act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a) defers the collection of construction costs from Indian owned lands so long as the title to such lands remains in the Indian ownership.

**PART 138--REIMBURSEMENT OF CONSTRUCTION COSTS, AHTANUM UNIT, WAPATO INDIAN IRRIGATION PROJECT, WASHINGTON**

Sec.

138.1 Construction costs and assessable acreage.

138.2 Repayments of construction costs.

138.3 Payments.

138.4 Deferment of assessments on lands remaining in Indian ownership.

138.5 Assessments after the Indian title has been extinguished.

**AUTHORITY:** Secs. 1, 3, 36 Stat. 270, 272, as amended; 25 U.S.C. 385.

**SOURCE:** 22 FR 10646, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

**§ 138.1 Construction costs and assessable acreage.**

The construction program has been completed on the Ahtanum Unit of the Wapato Indian Irrigation Project and the construction costs have been established as \$79,833.64. The area benefited by this development has been established at 4,765.2 acres. Under the requirements of the acts of February 14, 1920 (41 Stat. 409) and March 7, 1928 (45 Stat. 210), these costs are to be repaid to the United States Treasury by the owners of the lands benefited.

**§ 138.2 Repayment of construction costs.**

The cost per acre under § 150.1 is, therefore, established at \$16.7535. Under the provisions of the acts of February 14, 1920 (41 Stat. 409) and March 7, 1928 (45 Stat. 210) is based on forty equal annual payments, the