

**UTAH****Millard County**

Millard High School Gymnasium, 35 N. 200 W., Fillmore, 85000808

**Salt Lake County**

Building at 592–98 West 200 South, 592–98 W. 200 S., Salt Lake City, 82004134

**Sevier County**

Ramsay, Ralph, House, 57 E. 2nd N., Richfield, 75001824

**Utah County**

Stratton House—Orem City Hall, 870 W. Center, Orem, 98000674

[FR Doc. E9–19118 Filed 8–10–09; 8:45 am]

**BILLING CODE P**

**ACTION:** Notice of rate adjustment for 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 this project. We are notifying you that we have adjusted the irrigation assessment rate at the SCIP–JW to reflect current costs of administration, operation, maintenance, and rehabilitation.

**DATES:** Effective September 10, 2009.

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

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Rate Adjustment was published in the **Federal Register** (74 FR 19981) on April 30, 2009, to propose an adjustment to the irrigation

assessment rate at the SCIP–JW for 2011. The public and interested parties were provided an opportunity to submit written comments during the 30-day period that ended June 1, 2009.

**Does this notice affect me?**

This notice affects you if you own or lease land within the assessable acreage of the SCIP–JW or if you have a carriage agreement with this irrigation project.

**What irrigation assessments or charges are adjusted by this notice?**

The rate table below contains the current rate for SCIP–JW, where we recover costs of administering, operating, maintaining, and rehabilitating the project. The table also contains the final rate for the 2011 season.

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

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

**WESTERN REGION RATE TABLE**

Project name	Rate category	Final 2009 rate	Final 2010 rate	Final 2011 rate
San Carlos Irrigation Project (Joint Works) ..... (See Note #1) .....	Basic per acre .....	\$21.00	\$21.00	\$25.00

Note #1. The 2010 rate was established by final notice published in the **Federal Register** on April 22, 2009 (74 FR 18402).

**Did the BIA change the proposed rate increase?**

Yes. The BIA proposed a \$30/acre operation and maintenance (O&M) assessment rate for the SCIP–JW in 2011. This would have been a \$9/acre increase from the 2010 O&M assessment rate of \$21/acre. After further consideration, the BIA is establishing the 2011 O&M assessment rate at \$25/acre. This \$5/acre change in the proposed rate increase would extend, from two to three years, the time period required for BIA to collect from the water users the funds needed to replace the Coolidge Dam cylinder gates.

**Did the BIA receive any comments on the proposed irrigation assessment rate adjustments?**

Yes. Written comments relating to the proposed rate adjustment for the SCIP–JW were received by letter dated May 29, 2009, from one entity, the San Carlos Irrigation and Drainage District (District).

**What issues were of concern to the commenter?**

The District raised the following comments in its letter. The BIA's

response is provided immediately after each comment statement.

(1) *Comment:* The BIA has not employed a reasonable methodology for determining an appropriate O&M charge for 2011.

*Response:* The methodology used by the BIA to estimate an 2011 O&M budget and determine an appropriate rate for 2011 was reasonable. Based on a review of historical income receipts and expenditures, a budget of projected income receipts and expenditures is developed approximately two years before the O&M income is collected and expenses are incurred. The BIA relies on financial reports generated by the Federal Finance System for reviewing past expenditures and projecting a future budget and expenditures. Procurement files and records maintained by the SCIP–JW are also reviewed and considered. For example, with regard to development of the 2011 O&M budget, the BIA reviewed: (1) The year-end reconciled income and expenditure information for 2008; (2) available income and expenditure information 2009; (3) previous budget projections for 2010; and (4) other information relevant to potential future

activities, such as the cost information for replacement of the Coolidge Dam cylinder gates.

The SCIP–JW staff and District representatives discussed the pertinent budget information during several meetings held between November 13, 2008 and March 30, 2009. The District was provided with pertinent budget information during this time period.

(2) *Comment:* The BIA has provided the District with conflicting information about current and projected staffing levels for the Irrigation Division of the Project, and the allocation of \$615,000 in 2011 for personnel is excessive and unreasonable.

*Response:* The BIA does not believe that it has provided the District with conflicting information about current and projected staffing levels for the Irrigation Division of the SCIP–JW. The projected 2011 personnel budget for the Irrigation O&M staff is based on actual expenditures incurred by the SCIP–JW in 2008 and 2009 for the staff positions the SCIP–JW anticipates to be in its employment in 2010 and 2011, with modest cost of living increases. The base information for these staff positions and salary and wage grade scales was

provided to the District in December 2008.

In anticipation of the reduction-in-force resulting from the transfer of the SCIP-JW maintenance duties to the Joint Control Board (JCB) required by the Arizona Water Settlements Act (Pub. L. 108-451, 118 Stat. 3478, 3499 (Dec. 10, 2004)) and the Related Joint Control Board Agreement signed by the District and the Secretary of the Interior, the SCIP-JW will be updating its Irrigation Organization Chart. At that time, the District will be provided a copy of the revised Irrigation Organization Chart and associated salary table.

The reduction-in-force is in progress and the BIA estimates this action will result in an annual personnel cost savings of approximately \$400,000. This savings is accounted for in the 2010 and 2011 O&M budgets for the SCIP-JW and was identified to the District on or before March 30, 2009. Although the Supervisory Civil Engineer position was vacant from August 2008 through May 2009, the position has now been filled. The BIA disagrees with the District's assertion that only a half-time Civil Engineer position is needed. There are extensive construction activities planned for SCIP-JW facilities pursuant to the Arizona Water Settlements Act by the District, the Gila River Indian Community, and the U.S. Bureau of Reclamation. These activities require the attention of the Supervisory Civil Engineer, in addition to the duties retained by the SCIP-JW after the transfer of maintenance duties to the JCB.

Similarly, the BIA disagrees with the District's estimate of how many irrigation system operators the SCIP-JW needs to perform the water delivery duties. The SCIP-JW has a vast geographical territory, and the irrigation system operators are regularly called on to perform water delivery duties after normal working hours and on weekends and holidays.

BIA notes that the District reiterates its request for the SCIP-JW to assign the well maintenance function to the JCB. The agreement applicable to the JCB requires the BIA to continue maintenance of project wells until such time as the wells become a "District Rehabilitation Responsibility" as defined in sections 9.1 and 9.4 of the Joint Control Board Agreement. There may be other options available for consideration by BIA in response to this request, such as a Federal procurement action or an Indian Self-Determination contract action. However, consideration of these options would take time to discuss and evaluate and cannot be resolved in the context of the 2011 O&M

rate process. Regardless, implementation of other options for maintenance of project wells does not eliminate the costs; it only changes the way the costs are covered.

(3) *Comment:* The BIA's 2011 budget estimate for utilities, services, and supplies is excessive.

*Response:* The BIA does not believe the 2011 budget estimate for these categories is excessive. This conclusion is based on the best historical information available to the BIA for these expenditures. The details concerning these budget items were provided to the District earlier this calendar year. These categories primarily include expenditures to pay for repair and maintenance of the 98 wells owned and operated by the SCIP-JW. This is a high priority in the O&M budget because the groundwater supplied from these wells contributes significantly to the annual water apportionment in the project. Another significant expenditure in this category is the Federal environmental compliance costs incurred by the SCIP-JW to: (1) Evaluate encroachment actions on SCIP-JW facilities due to non-irrigation development by District landowners; and (2) to comply with other applicable Federal environmental requirements in the course of O&M activities retained by the BIA under the Arizona Water Settlements Act and Joint Board Agreement.

(4) *Comment:* The replacement of the Coolidge Dam cylinder gates constitutes "betterment" and requires the consent of the District because the purpose for replacing these gates is to extend the useful life of Coolidge Dam.

*Response:* The BIA disagrees with the District's assertion that replacement of the Coolidge Dam cylinder gates is "betterment." Coolidge Dam is the asset and the cylinder gates are components of the dam. Replacing the gates does not increase the life of the dam; the replacement only allows the BIA to operate the asset (Coolidge Dam) properly. The BIA considers the gate replacement to be deferred maintenance which needs to be completed as soon as the requisite funds to pay for the replacement costs can be collected through the O&M assessment rate process. The BIA provided extensive technical information about the condition of the cylinder gates to the District twice since 2006 and sought review and comment from the District about the problem and the replacement plan. See the report completed in July 2004 by the Bureau of Reclamation for the BIA titled: "Coolidge Dam, Comprehensive Dam Review, Bureau of Indian Affairs—Safety of Dams Program,

Western Region, San Carlos Indian Reservation, 2004." This report includes an additional document titled: "Examination Report, Special Examination, Coolidge Dam, San Carlos, Arizona," which documents the findings and recommendations relating to the Coolidge Dam cylinder gates. The District has not submitted substantive comments to the BIA on this matter in response to this technical information.

These reports provide the following information: a buckling failure of a cylinder gate while closed, due to large hydrostatic loads on a reduced steel section (from corrosion), could prevent re-opening of the gate for reservoir releases and also present a dam safety concern. A single nine-foot-diameter circular bulkhead gate could be fabricated for installation by a crane onto either cylinder gate seat within each intake tower for maintenance and inspection purposes, replacing the function of the cylinder gates at a reasonable cost. Failure of either cylinder gate is considered likely within the next 30 years under normal operating heads and immediate measures should be taken to lock both gates in the fully open position until they are removed. Based on this technical review and information, BIA decided to lock the existing cylinder gates in a fully open position and the gates are no longer available to be closed under any circumstance. This prevents inspection and maintenance of the emergency guard gate and sections of the conduit through the dam upstream of the emergency guard gate.

Based on this information, the BIA believes it is appropriate as the owner/operator of Coolidge Dam, as well as the steward of the water supply delivered from Coolidge Dam, to move forward with the actions required to replace the cylinder gates. In order to reduce the cost burden to the District landowners, the BIA will reduce the 2011 O&M rate from \$30/acre to \$25/acre and collect the funds for this purpose over a three-year period rather than a two-year period.

(5) *Comment:* The BIA's emergency reserve fund should be maintained at \$200,000, not \$600,000.

*Response:* The BIA disagrees with the District's analysis of the emergency reserve fund. During calendar year 2006, when the BIA engaged in water user meetings with the District and the Indian water users about the proposed O&M rate for 2008 and 2009, extensive discussion ensued concerning the amount of the emergency reserve fund and the separate reserve fund maintained by the SCIP-JW for well replacement. In response to the

concerns expressed by the District in these meetings, the BIA abolished the separate reserve fund for the well replacement contingencies and the BIA decided to use the emergency reserve fund to replace wells as needed and will replenish the reserve fund if it is used for well replacement. A single well replacement is estimated to cost between \$250,000 and \$300,000. The BIA believes a reserve fund sufficient to replace two wells should be maintained. As such, the BIA believes it is reasonable to maintain the SCIP-JW emergency reserve fund at \$600,000. This amount complies with the BIA's policy for irrigation project reserve funds.

(6) *Comment:* The District requests copies of all information that was used to prepare the proposed budget and O&M charge for 2011.

*Response:* The development of the 2011 O&M budget estimate is logically an outgrowth of the extensive discussions between BIA and the District about the O&M income and expenditures in 2008 and 2009 and the projected O&M budget for 2010. These discussions also included fiscal and programmatic issues and information related to the transfer of SCIP-JW

maintenance duties to the JCB, as required by the Arizona Water Settlements Act and the Joint Control Board Agreement signed by the District and the Secretary of the Interior.

Examples of the information provided to the District include: staff position titles; staff position salary and wage grade scales; projected and actual expenditures for FY 2009; projected expenditures for 2010; final income and expenditure information for the reconciled year-end 2008 O&M budget (including volumes of documentation from the Federal Finance System and General Ledger); SCIP-JW budget spreadsheets displaying historical expenditure data for nearly the last ten years; and detailed descriptions of the O&M activities and performance standards for the SCIP-JW.

Additionally, the SCIP-JW provided the District with access to all of its contract files as part of the pending litigation in *San Carlos Irrigation and Drainage District v. United States*, No. 06-576C, U.S. Court of Federal Claims. These contract files contained information pertaining to current SCIP-JW obligations and payments for contract obligations relating to large outlays, such as well maintenance and

repair and environmental compliance costs associated with O&M of the SCIP-JW.

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

You can contact the appropriate office(s) stated in the table for the SCIP-JW, or you can use the Internet site for the Government Printing Office at <http://www.gpo.gov>.

#### **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.

#### **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, AZ 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

#### **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, costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by project, BIA, 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 increase use of foreign supplies) as this rate adjustment is 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 of the Interior (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.

**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 Federal 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 that 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: July 28, 2009.

**George T. Skibine,**

*Acting Principal Deputy, Assistant Secretary—Indian Affairs.*

[FR Doc. E9-19115 Filed 8-10-09; 8:45 am]

**BILLING CODE 4310-W7-P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

**[FWS-R9-IA-2009-N161; 96300-1671-0000-P5]**

**Receipt of Applications for Permit**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications

for permits to conduct certain activities with endangered species. The Endangered Species Act requires that we invite public comment on these permit applications.

**DATES:** Written data, comments or requests must be received by September 10, 2009

**ADDRESSES:** Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

**FOR FURTHER INFORMATION CONTACT:** Division of Management Authority, telephone 703/358-2104.

**SUPPLEMENTARY INFORMATION:****Endangered Species**

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Submit your written data, comments, or requests for copies of the complete applications to the address shown in **ADDRESSES**.

Applicant: Archie Carr Center for Sea Turtle Research, University of Florida, Gainesville, FL, PRT-724540

The applicant requests an amendment to an existing permit to import biological samples collected from captive-bred green sea turtles (*Chelonia mydas*) from the Cayman Turtle Farm, Cayman Islands, for the purpose of scientific research. Samples are to be collected from live or salvaged specimens. This notification covers activities conducted by the applicant over the remainder of the 5-year period of the permit.

Applicant: University of California, Santa Cruz, CA, PRT-215732

The applicant requests a permit to acquire from Coriell Institute of Medical Research, Camden, NJ, in interstate commerce fibroblast cell line cultures from gorillas (*Gorilla gorilla*) and orangutan (*Pongo abelli*) for the purpose of scientific research.

The following applicants request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled

from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Vance D. Coffman, Pebble Beach, CA, PRT-219600

Applicant: Clint Chamberlain, Yukon, OK, PRT-219627

Applicant: Thomas A. Fraley, Newburg, MO, PRT-219683

Applicant: Eric L. Nysse, New Holstein, WI, PRT-219947

Applicant: Gregory G. Rodriguez, Sugar Land, TX, PRT-220498

Applicant: Randall R. Foster, Midland, TX, PRT-220517

Applicant: James M. Beier, Rochester, MN, PRT-220669

Applicant: James R. Boyd, Rapid City, SD, PRT-220718

Applicant: Robert M. Bensinger, Akron, OH, PRT-220877

Dated: July 31, 2009

**Lisa J. Lierheimer**

*Senior Permit Biologist, Branch of Permits, Division of Management Authority*

[FR Doc. E9-19221 Filed 8-10-09; 8:45 am]

**BILLING CODE 4310-55-S**

**DEPARTMENT OF LABOR****Office of the Secretary****Submission for OMB Review: Comment Request**

August 5, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at <http://www.reginfo.gov/public/do/PRAMain> or by contacting Darrin King on 202-693-4129 (this is not a toll-free number)/e-mail: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor-ETA, Office of Management and Budget, Room 10235,