

## Bureau of Indian Affairs, Interior

## § 171.12

(b) Waste water shall not be permitted to flow upon or collect in road or project rights-of-way. Failure to comply with this requirement could result in the Officer-in-Charge refusing the further delivery of water.

### § 171.9 Structures.

(a) All structures, including bridges or other crossings, which are necessary as a part of the project's irrigation and drainage system will be installed and maintained by the project.

(b) During the construction of a new irrigation project or the extension of an existing project, bridges, crossings or other structures may be built by the Officer-in-Charge for private use where justified by severance agreements or other practical considerations. Title to these structures may or may not be vested in the United States depending upon the agreement with the landowner. Structures built partially or wholly in lieu of severance damages may be required to be maintained by the landowner even though title remains with the United States.

(c) After a project is completed, additional structures crossing or encroaching on project canal, lateral or drain rights-of-way which are needed for private use may be constructed privately in accordance with plans approved by the Officer-in-Charge or by the project. In either case the cost of installing such structures will not be at the project's expense. Such structures will be constructed and maintained under revocable permits on proper forms issued by the Officer-in-Charge of the irrigation project to the party or parties desiring such structures.

(d) If it is determined that a crossing constructed for and by the project is no longer needed for operation and maintenance of the system. It should be removed. However, if a private party, corporation, State, or other Federal entity desires to use the crossing, it may be transferred to such entity by the Officer-in-Charge under a permit which relieves the United States from any further liability or responsibility for the crossing, including its maintenance. The following provisions pertain:

(1) Permits issued in such situations shall stipulate what is granted, and ac-

cepted by the permittee on the condition that the repair and maintenance of the structure shall be the duty of the permittee or his successors without cost to the irrigation project.

(2) The permit shall further provide that if any such structure is not regularly used for a period of one year or is not properly maintained, the Officer-in-Charge may notify the person responsible for the structure's maintenance either to remove it or to correct any unsafe conditions within a period of 90 days.

(3) If the structure is not removed or the unsafe condition corrected within the time allowed, it may be removed by the Officer-in-Charge, the cost of such removal to be paid by the party responsible for the maintenance of the structure.

### § 171.10 Fencing.

Fences across project rights-of-way will not be constructed without the approval of the Officer-in-Charge. The granting of such approval shall be dependent upon proper installation so as not interfere with the flow of water or the passage of project operators and equipment. In case an unauthorized fence is installed, the landowner shall be notified to remove it. If it is not removed within a reasonable period of time or satisfactory arrangements made with the Officer-in-Charge, it may be removed by project personnel at the landowner's expense.

### § 171.11 Obstructions.

No obstructions of any kind including service or farm ditches, will be permitted upon project rights-of-way. Due notice will be given to an operator or landowner to remove any obstructions. If not removed within a reasonable period of time after notice is given, an obstruction will be removed by project forces at the expense of the operator or landowner.

### § 171.12 Rights-of-way.

(a) Rights-of-way reserved for the project's irrigation system are of sufficient width to permit passage and use of equipment necessary for construction and proper operation and maintenance of the project's canals, laterals, and other irrigation works.

(b) In the construction of new irrigation projects or extension of existing projects, rights-of-way which have not been reserved across Indian lands will be obtained in accordance with part 169 of this chapter.

**§ 171.13 Crops and statistical reports.**

An annual project crops and statistical report shall be prepared by the Officer-in-Charge. The landowner or farm unit operator shall cooperate in furnishing such information as requested.

**§ 171.14 Carriage agreements and water right applications.**

(a) *Pine River Indian Irrigation Project, Colorado.* If the Area Director determines that there is sufficient capacity in the project's carriage and/or distribution system in excess of that required by the project he is authorized to enter into carriage agreements with non-project water users to convey non-project water through project facilities for delivery to non-project lands.

(b) *Uintah Indian Irrigation Project, Utah.* If the Superintendent determines that there is sufficient capacity in the irrigation project's carriage and/or distribution system in excess of that required by the project, he is authorized to enter into carriage agreements with non-project water users to convey non-project lands. The Superintendent is also authorized to enter into carriage agreements with private irrigation or ditch companies for the conveyance of project water through non-project facilities for delivery to isolated Indian lands that cannot be served from project facilities.

(c) *Wapato Irrigation Project, Washington.* The Project Engineer is authorized to execute water right applications submitted by landowners in the project on behalf of the Secretary of the Interior. Such applications should be submitted on the approved Departmental form.

**§ 171.15 Leaching water.**

(a) The Officer-in-Charge is authorized to furnish irrigation water for leaching purposes without the payment of operation and maintenance charges to any Indian trust land, or patent in fee land covered by a repayment contract, as an aid to improve land within

the project that is impregnated by alkali or in the development of new project land.

(b) Delivery of such water will depend upon the availability of water and the preparation of a definite plan of operation by the land operator satisfactory to the Officer-in-Charge. In addition, the operator shall agree to meet such reasonable leaching and cropping activities as shall be prescribed by the Officer-in-Charge.

(c) If prompt and beneficial use of the leaching water is not made by or before July 1 of the season for which it is granted, the Officer-in-Charge may declare the leaching permit forfeited. The normal water charges will be considered as assessed and any delinquency enforced as though no leaching privilege had been granted.

(d) In the case of patent in fee lands no water will be delivered for leaching purposes until the annual construction costs, when assessed, are paid.

**§ 171.16 Excess water.**

(a) *General.* On those irrigation projects where a water duty or water quota has been established each water user will be notified when his quota of water, as covered by the basic assessment and as announced in the public notice, has been delivered. In such cases, additional irrigation water, if available, may be delivered providing the water user so requests it and agrees to pay for the excess water in accordance with the excess water provisions as set forth in the public notice.

(b) *Flathead Indian Irrigation Project, Montana.* (1) After an agreement has been reached by the Commissioners of the irrigation district and the Officer-in-Charge as to the duty of water on individual tracts where water users claim excess requirements above the duty of water established for the project on account of porous or gravelly soils, the Officer-in-Charge is authorized to increase the quantity of water to be delivered to such tracts.

(2) The amount of water delivered in such cases will not exceed four (4) acre feet per assessable acre except in the Moiese Division where the amount shall not exceed six (6) acre feet providing there is sufficient water available in Lower Crow Reservoir without