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conclusive unless within 30 days of the date of receipt of such notice the Regional Director submits his written comments and objections to the Commissioner of Indian Affairs and requests further consultation. If after such further consultation, timely taken, the Commissioner does not modify his determination and so advises the Regional Director in writing or if modifications are made by the Commissioner but the Regional Director still does not agree therewith, the Regional Director may, within 30 days after receipt of the Commissioner's response, appeal to the Secretary of the Interior for a decision on the matter. During the pendency of such appeal and until disposition thereof by the Secretary, water deliveries will be made to the extent legally and physically available according to the Commissioner's determination or according to the Commissioner's determination for the preceding calendar year, whichever is less.

(b) Modifications of said determinations due to changed conditions, emergency or hardship may be made by the Commissioner, subject, however, to the right of the Regional Director to appeal to the Secretary, as provided in the case of an initial determination by the Commissioner. During the pendency of such an appeal, water deliveries will be made on the basis of the initial determination.

§417.6 General regulations.

In addition to the recommendations and determinations formulated according to the procedures set out above, the right is reserved to issue regulations of general applicability to the topics dealt with herein.

PART 418—OPERATING CRITERIA AND PROCEDURES FOR THE NEWLANDS RECLAMATION PROJECT, NEVADA

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APPENDIX A TO PART 418—CALCULATION OF EFFICIENCY EQUATION

AUTHORITY: 43 U.S.C. 391, et seq.; 43 U.S.C. 373; 43 U.S.C. 614, et seq.; 104 Stat. 3289, Pub. L. 101-618.

Bureau of Reclamation, Interior

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SOURCE: 62 FR 66467, Dec. 18, 1997, unless otherwise noted.

GENERAL PROVISIONS

§418.1 Definitions.

Bureau means the Bureau of Reclamation.

Decrees means the *Alpine* decree (*United States v. Alpine Land and Reservoir Co.*, 503 F. Supp. 877 (D. Nev. 1980)) and the *Orr Ditch* decree (*United States v. Orr Water Ditch Co.*, Equity No. A-3 (D. Nev.))

District means the Truckee-Carson Irrigation District or any other approved Newlands Project operator.

Eligible land means Project land which at the time of delivery has a valid water right and either:

(1) Is classified as irrigable under Bureau land classification standards (Reclamation Instruction Series 510); or

(2) Has a paid out Project water right.

Full reservoir means 295,500 acre-feet in Lahontan Reservoir using Truckee River diversions. The Reservoir can fill above 295,500 acre-feet to 316,500 acre-feet with Carson River inflow and the use of flash boards. Intentional storage on the flash boards will occur only after the peak runoff.

Project means the Newlands Irrigation Project in western Nevada.

§418.2 How Project water may be used.

Project water may be delivered only to serve valid water rights used for:

(a) Maintenance of wetlands and fish and wildlife including endangered and threatened species;

(b) Recreation;

(c) Irrigation of eligible land; and

(d) Domestic and other uses of Project water as defined by the decrees.

§418.3 Effect of these regulations on water rights.

This part governs water uses within existing rights. This part does not in any way change, amend, modify, abandon, diminish, or extend existing rights. Water rights transfers will be determined by the Nevada State Engineer under the provisions of the *Alpine* decree.

§418.4 Prohibited deliveries.

The District must not deliver Project water or permit its use except as provided in this part. No Project water will be released in excess of the maximum allowable diversion or delivered to ineligible lands. Delivery of water to land in excess of established water duties is prohibited.

§418.5 Responsibility for violations.

Violations of the terms and provisions of this part must be reported immediately to the Bureau. The District or individual water users will be responsible for any shortages to water users occasioned by waste or excess delivery or delivery of water to ineligible land as provided in this part.

§418.6 Fallon Paiute-Shoshone Indian Reservation.

Nothing in this part affects:

(a) The authority of the Fallon Paiute-Shoshone Tribe to use water on the Tribe's reservation which was delivered to the Reservation in accordance with this part; or

(b) The Secretary's trust responsibility with respect to the Fallon Paiute-Shoshone Tribe.

CONDITIONS OF WATER DELIVERY

§418.7 Who may receive irrigation deliveries.

Project irrigation water deliveries may be made only to eligible land to be irrigated. The District must maintain records for each individual water right holder indicating the number of eligible acres irrigated and the amount of water ordered and delivered.

§418.8 Types of eligible land.

(a) *Eligible land actually irrigated.* During each year, the District, in cooperation with the Bureau, must identify and report to the Bureau the location and number of acres of eligible land irrigated in the Project. Possible irrigation of ineligible land will also be identified. The Bureau will review data to ensure compliance with this part. The District, in cooperation with the Bureau, will be responsible for field checking potential violations and immediately stopping delivery of Project