

**STATEMENT
OF
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OFFICE OF TRUST SERVICES, BUREAU OF INDIAN AFFAIRS
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
FIELD HEARING ON THE WIND RIVER IRRIGATION PROJECT**

APRIL 20, 2011

Good morning Mr. Chairman, I am John Anevski, Chief, Division of Water and Power, Office of Trust Services, for the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior (Department). I am pleased to provide the Department's statement on the Wind River Irrigation Project (Project). Let me begin with a brief discussion of the history of the BIA's irrigation program.

The BIA has been involved with Indian irrigation since the mid-1800s starting with the Colorado River Indian Irrigation Project. The BIA is responsible for fifteen revenue-generating Indian irrigation projects that deliver irrigation water to over 700,000 acres of land through 6,200 miles of canals and drains with over 55,000 irrigation structures. Because of specific statutory authorities the BIA charges operation and maintenance (O&M) assessments on these projects to both Indian and non-Indian customers, to reimburse the Federal Government for their individual O&M costs (the Project is one of these). Most of these fifteen projects receive little or no appropriated funds, which means these projects operate much like a non-profit private utility. All of the BIA's irrigation projects, including the Project, are vital economic contributors to the local communities and regions where they are located.

The BIA operates its irrigation projects under various laws, regulations and policy guidance, including chapter 11 of title 25 of the U.S. Code, part 171 of title 25 of the Code of Federal Regulations, Part 50, Chapter 1 of the Indian Affairs Manual, and the BIA National Irrigation Handbook (August 2008). Most projects also have extensive legislative histories, including the Wind River Project, which has over fifty congressional appropriations and statutes. The BIA completed O&M Guidelines for the Project in 2008. The BIA also consults with the Eastern Shoshone and Northern Arapahoe Tribes' (Tribes) Joint Business Council and their staff, and Project water users on a regular basis regarding Project matters.

The Project was authorized in 1905. The Project is operated and administered by the BIA, at Wind River Agency, and consists of a total of 37,883 assessable acres. The Project facilities include 467 miles of canals and laterals and 5,268 irrigation structures. The CrowHeart and LeClair units were organized to administer some of the lands in the Project. The Regional Irrigation Engineer, who is the Officer-in-Charge of the Project, administers the Project through the Project Manager who manages, supervises and administers the daily operations and maintenance of the Project.

The BIA's operation and maintenance of the Project is funded entirely by assessments from approximately 960 landowners and lessees which include the Tribes, individual Indians and non-Indians. The current (2011) O&M assessment for the Project varies from a low of \$14.00/acre at the CrowHeart unit to \$21.00/acre at the LeClair Unit with the majority of the Project assessed at \$20.00/acre. The cost to operate and maintain the Project is approximately \$715,000 annually. Sixty-seven percent of the land is Indian owned and thirty-three percent is non-Indian owned. The BIA recently completed several significant improvements at the Project using congressionally appropriated funds for construction on our Wyoming and Montana projects.

The BIA Safety of Dams program recently completed rehabilitation of Washakie and Ray Lake Dams at a cost of \$15 million. And the BIA annually uses over \$30,000 from this program to support ongoing Safety of Dams maintenance at these dams. In addition, Congress earmarked \$3.75 million in Fiscal Year 2006 and 2007 for irrigation construction at the Project and the State of Wyoming has matched these funds with a \$3.5 million grant.

The BIA is currently preparing for the upcoming irrigation season with deliveries anticipated to begin approximately May 1 and end sometime in late September. Once this season is complete there are several maintenance activities the BIA plans to perform, including the installation and/or replacement of several new turnouts, cleaning of drains, installation of numerous drain culvert crossings, and replacement of a check structure and crossing.

For the 2011 irrigation season, the Project is scheduled to bill water users O&M assessments totaling \$670,018. As the Project has a significant number of "fractionated" lands, lands with multiple owners, approximately 1,978 bills will be under BIA's economic threshold of \$25, and hence, will not be mailed. In 2010, this amounted to just under \$8,500. In recent years, the Project's collection rate has hovered around 87%. However, in 2010, the Project experienced a 92% collection rate. The high historical collection rate has been, in part, due to the BIA's implementation of the Debt Collection Improvement Act.

The BIA is implementing several new initiatives to address challenges at the Wind River Project and several of its other projects. Some of these initiatives are in response to recommended remedial actions from various reports by the Department's Office of Inspector General and the Government Accountability Office. One recommendation made in those reports was that BIA should increase the level of technical support for project managers by putting these projects under the direct supervision of regional or central irrigation office staff or by implementing more stringent protocols for engineering review and approval of actions taken at the projects. In February 2007, BIA established policies to ensure adequate technical oversight and assistance is given to project managers of the BIA irrigation projects. These policies set requirements for Central Office Division of Water and Power staff, Regional Irrigation Engineers and Irrigation Project Managers to follow for improved oversight, program reviews, assistance, review and approval, and standards.

In January 2011, the Rocky Mountain Region realigned irrigation personnel at the Agency level to be under the direct supervision of the Region for a BIA pilot project. This realignment will more effectively utilize personnel and resources, streamline processes such as contracting and purchasing, increase technical oversight, and reduce administrative costs so more money can be

directly spent on O&M. In addition to these managerial reforms, the BIA is working more closely with water users to be responsive to their concerns and giving the water users a greater role in Project operations.

In July 2006, policy was established requiring projects to hold water users meetings at least twice annually. This was done in order to provide for a more transparent operation and as a method to keep our water users informed of our activities and how we are spending their money. In addition to collecting more feedback on its management performance, the BIA is encouraging and empowering water users to take over O&M activities for all or parts of the Project. Currently, here at Wind River, there is a memorandum of agreement (MOA) in place with the Crowheart Bench Water User Association, and a tripartite agreement with the LeClair Unit and Riverton Valley Irrigation District. Approximately 32% of the assessable acres on the Project have the O&M activities contracted out through these agreements. The BIA is also instituting several financial reforms to bring project revenues in line with needed expenditures.

The BIA's policy, similar to that of the Bureau of Reclamation, is that revenues from irrigators must fund the annual O&M for BIA irrigation projects. Historically, the BIA tempered O&M rate increases based, in part, on the potential economic impact to water users. Over time, this tempering of rates resulted in budget deficiencies which contributes to the decline of the projects and has led to critical reviews of this practice by the Office of Inspector General and the Government Accountability Office. In response to the concerns that have been raised, BIA has been working for several years to increase the assessed rate to a level that better represents the actual cost of operating and maintaining the projects. To complement these financial reforms the BIA is undertaking several initiatives to improve its maintenance management and ensure O&M assessments are spent effectively.

Engineering condition assessments have been commissioned for most BIA irrigation projects, with the Wind River study being completed in 2008 (HKM Engineering Study). The 2008 study estimated the replacement value of the Project to be approximately \$93 million. The deferred maintenance for the project is estimated at \$28 million.

In 2008, the BIA revised its irrigation regulations at title 25 part 171 of the Code of Federal Regulations. The revision includes two key features that were included to benefit all of the BIA irrigation projects, Annual Assessment Waivers and Incentive Agreements. The Annual Assessments Waivers are designed to allow for an easy method to waive the O&M assessments for lands to which the BIA cannot deliver water. The past regulations required BIA to bill the water user and the water user had to appeal the bill to receive a refund. Incentive Agreements provide incentive to potential lessees to bring idle lands into production. Many BIA projects have lands that have become idle and have not been farmed for many years. Incentive Agreements allow the project to waive the irrigation O&M assessment for up to three years if the landowner or lessee agrees to make improvements to the lands to bring them back into production. These agreements benefit the land owner by improving the value of their land and will increase the Project's revenues.

I thank you for your time and for your consideration of this issue. This concludes my prepared statement. I will be happy to answer any questions you may have.