STATEMENT
OF
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U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING ON
IRRIGATION PROJECTS IN INDIAN COUNTRY

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Good afternoon Chairman Tester, Vice Chairman Barrasso, and members of the Committee. My name is Lawrence Roberts and I am the Principal Deputy Assistant Secretary for Indian Affairs at the Department of the Interior (Department). Thank you for inviting the Department to provide testimony on Irrigation Projects in Indian Country. We appreciate the Committee's continued leadership on this issue, as it is a daunting challenge similar to other infrastructure challenges faced across the Nation.

I will begin with a brief discussion of the history of the Bureau of Indian Affairs (BIA) Irrigation Program, provide an overview of the 17 BIA irrigation projects, and discuss the work BIA has been doing on this issue.

Background

The Federal government has been involved with Indian irrigation since the Colorado River Indian Irrigation Project was authorized in 1867. In the early 1900's, Congress began authorizing funding for construction of numerous Indian irrigation projects in the western United States. At that time, the Indian Irrigation Service led construction and early administration of the projects. In the late 1930's and through the 1940's, as construction activities wrapped up on most projects, the Indian Irrigation Service ceased to exist and operation and maintenance, referred to hereafter as O&M, was transferred to the BIA, where it continues today. The BIA irrigation program is responsible for oversight and administration of fifteen revenue-generating Indian irrigation projects that provide service and delivers water to over 25,000 customers and 750,000 acres of land in Indian Country. BIA's irrigation asset inventory includes approximately 6,200 miles of canals and drains and over 58,000 irrigation structures. The asset inventory and program responsibilities also include BIA-owned facilities at non-revenue generating irrigation projects, including the Navajo Indian Irrigation Project in New Mexico and Pyramid Lake Irrigation Project in northern Nevada. At these facilities the BIA does not assess O&M charges to irrigators; those charges are instead paid through appropriations or other means. The BIA irrigation program also provides limited support to over 100 irrigation systems that were constructed in the early 1900's, most of which are operated and maintained by tribes.

Overview of the Irrigation Projects in Indian Country

BIA irrigation projects are vital economic contributors to the local communities and regions where they are located. Recent BIA studies show that the irrigation projects in Indian Country are in various states of disrepair. Many of the key structures still functioning today are the same structures that were constructed over 100 years ago. In spite of their current condition, BIA estimates that irrigated lands served by the 15 BIA revenue generating irrigation projects add $490M in revenue and supports almost 10,000 jobs.

The BIA operates its irrigation projects consistent with numerous laws, regulations and policy guidance and many projects have extensive, specific legislative histories. For example, specific statutory authorities require that BIA charge O&M assessments to both Indian and non-Indian customers, and to reimburse the Federal Government for such O&M costs. Most of the 15 revenue-generating projects receive little or no appropriated funds. Whenever possible and practical, BIA works to leverage cost-share opportunities with any other funding that is made available to tribes and water user organizations. BIA increased its funding request in the FY15 President' Budget Request for irrigation project rehabilitation to $2,612,000 from $998,000, an increase of $1,614,000. The appropriated Construction Funds for Indian Irrigation Projects are prioritized using multiple factors, including Critical Health and Safety factors and the Rehabilitation Priority Index (RPI) values determined from the BIA's Condition Assessment process. Projects are submitted from our Regional Office engineers and ranked by our Central Office engineering team using a formal ranking process. Emergency repair situations also come into play given the large deferred maintenance backlog, occasionally requiring the reprogramming of those funds to address those needs. Projects that have received these funds in the past include lining of the Tyhee Siphon, a critical feature for the Fort Hall Project in Idaho; repair of the Two Medicine Canal failure on the Blackfeet Irrigation Project in Montana; and repair of the Dr. Morrison canal failure on the Pine River Irrigation Project in Colorado. We will use this same process for determining the FY15 projects that will be funded. As discussed below, without new funding deferred maintenance remains an enormous challenge.

Historically, BIA has not charged sufficient Operation, Maintenance & Rehabilitation (OM&R) rates to allow for adequate project maintenance and replacement. Over time, this has resulted in less maintenance accomplished and a steady increase in deferred maintenance. This contributed to critical reviews by the Office of Inspector General in the 1990's and the Government Accounting Office in 2006.

Fifteen of the seventeen BIA projects operate with annual O&M fees near or at the full-cost of service. We believe that rates are now set at levels to stem the growth of deferred maintenance, but the existing level of deferred maintenance is such that it cannot be economically addressed through increased O&M rates. Over the past decade or more, BIA has made significant progress in systematically increasing O&M rates at projects where O&M rates are insufficient. In fact, over the past 10 years, O&M rates have increased approximately 29 percent on average at BIA irrigation projects, with one project's rates increased by 74 percent.

Program Accomplishments

The BIA irrigation program has made significant strides over the past eight years in addressing a variety of issues critical to the program. These efforts include setting O&M rates at levels we believe are more sustainable for current operations, and these efforts need to continue in this area to ensure sustainability of operations and maintenance into the future.

There are other Department initiatives BIA is implementing that address challenges at BIA irrigation projects. Some of these initiatives are in response to recommendations by the Department's Office of Inspector General and the GAO. One recommendation made in those reports was that BIA should increase the level of engineering technical support and management oversight 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.

In addition to these managerial reforms the BIA is working more closely with water users, which include the tribe(s), tribal members, and non-Indians, to be responsive to their concerns and giving the water users a greater role in Project operations.

In July 2006, a policy was established requiring BIA to hold water users meetings at least twice annually. This policy was implemented to solicit input from project stakeholders and provide transparency on the planned use of O&M funds. In addition to collecting more feedback on its management performance, BIA is providing more opportunity for direct stakeholder involvement of all or part of the project. For example, the Wind River Irrigation Project utilizes a Memorandum of Agreement (MOA) with the Crowheart Bench Water Users Association, and a tripartite agreement among the BIA, the LeClair Unit and the Riverton Valley Irrigation District to conduct O&M activities on BIA's behalf.

In 2008, the BIA revised irrigation regulations published in 25 CFR 171, titled "Irrigation Operation and Maintenance." The revision contains two key features that were included to benefit all 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 if the BIA cannot deliver irrigation water to a customer. Past regulations required BIA to bill the water user and in order to receive a refund, the water user had to formally appeal the bill. The new regulations streamlined that process to minimize administrative requirements for both BIA and the water users. Many BIA projects have lands that have become idle and have not been farmed for many years. To assist the BIA and land owners, and provide incentive to potential lessees to bring these lands back into production, the new regulations allow for Incentive Agreements. 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 both the land owner and the project by improving land value and increasing Project O&M revenues.

Irrigation Project Condition Assessments

BIA has taken measureable steps to acquire better information about the irrigation projects to better understand the deferred maintenance backlog. Beginning in 2007, as required by the Department and BIA's Asset Management Plans, BIA began conducting engineering condition assessments. Condition assessments identify the costs to repair and replace infrastructure and includes the development of priorities based on health and safety and the asset priority in relation to the overall project. Since 2007, condition assessments have been completed or are currently being conducted for all of BIA's revenue generating irrigation projects. These studies are funded through appropriations to BIA's irrigation program at the national level as opposed to passing this cost on to project irrigators. The remaining three assessments are scheduled to be completed by 2017.

As the remaining condition assessments are completed, BIA's deferred maintenance estimate will more accurately reflect conditions in the field. In our next round of condition assessments we will also include estimates for road crossing and building repairs, which were not evaluated in the initial assessments. As water settlements are implemented, like the Crow Water Rights Settlement Act of 2010 and the Arizona Water Settlement Act of 2004, BIA's estimate of deferred maintenance will become more refined and better estimates of what might be needed should be available.

Where tribes have received water settlement funding for irrigation rehabilitation, infrastructure is being rehabilitated and modernized to provide reliable irrigation service to customers of BIA-owned and operated facilities for years to come. One example of where water settlement funding is providing large-scale capital improvements and rebuilding an old, dilapidated system into a new, state-of-the-art project is in Arizona at BIA's San Carlos Irrigation Project, which serves the Gila River Indian Community.

Addressing Deferred Maintenance

The 2013 deferred maintenance estimate for BIA-owned irrigation facilities is approximately $600 million. The Department understands that the deferred maintenance backlog at Indian irrigation projects is a longstanding issue. As discussed above, we have completed a number of assessments and anticipate completing the last three assessments by 2017. Without significant capital investment, we believe overcoming the deferred maintenance backlog is unachievable given the current agricultural economies of irrigated agriculture in rural Indian Country.

At the Wind River Irrigation Project in Wyoming, for example, the deferred maintenance backlog is approximately $35 million and the project assesses approximately 35,000 acres. Relying solely on O&M revenues would increase costs to such an extent that irrigated agriculture would likely not be economically viable. The Department and BIA worked closely with Committee staff on this issue over the years. This Congress introduced legislation that would provide resources to address the deferred maintenance backlog at many of BIA's irrigation projects. We stand ready to continue our work with the Committee on such legislation.

This concludes my prepared statement. I will be happy to answer any questions you may have.