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OFFICE OF THE TRIBAL WATER ENGINEER**

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Testimony of the Eastern Shoshone and Northern Arapaho Tribes
Presented by Mitchel T. Cottenoir – Tribal Water Engineer
For the Wind River Irrigation Project
Before the Senate Committee on Indian Affairs
Of the United States Senate
At an Oversight Hearing on Irrigation Projects in Indian Country
September 10, 2014

Chairman Tester, Vice Chairman Barrasso and members of the Committee, thank you for inviting me as a representative of the Eastern Shoshone and Northern Arapaho Tribes to appear before you today.

Little has changed on the Wind River Reservation Irrigation Project since the April 2011 Field Hearing held by Senator Barrasso in Riverton, WY. Operation and Maintenance Assessments have continued to rise and deferred maintenance continues to rise as well. The Bureau of Indian Affairs, the entity that owns and operates the project, continues to not have any long term plan for rehabilitation of the Wind River Irrigation Project. The major rehabilitation efforts that have been undertaken have been led by the Eastern Shoshone and Northern Arapaho Tribes, the Wind River Water Resource Control Board and the Office of the Tribal Water Engineer.

The Bureau of Indian Affairs Irrigation staff at the Wind River project is significantly understaffed and the the system is operated inefficiently with only minor necessary maintenance. In an effort to provide the required operational and maintenance needs of the system the Tribes have encouraged irrigators in the system to form water users associations. These associations have negotiated Cooperative Assistance Agreements (CAA) with the Bureau of Indian Affairs to assume the operation and maintenance of their designated portion of the system. A percentage of the irrigation assessment is returned to the association to provide funding for operating staff and needed maintenance. Under the CAA each association has seen a dramatic improvement the overall operation and maintenance of their part of the system compared to the past services provided by the Bureau of Indian Affairs. Nonetheless the overall project is in dire need of major repair.

It is hoped that each association can accumulate a rehabilitation fund that can be leveraged to acquire additional funding from sources such as the Wyoming Water Development Commission. We have had some success in such efforts in recent years.

The Eastern Shoshone and Northern Arapaho Tribes, the Wind River Water Resource Control Board and the Office of the Tribal Water Engineer strongly endorse the Barrasso amendment (title IV) to S. 715, the Authorized Rural Water Projects Completion Act. The funds that would be provided thru this bill would provide for the much needed rehabilitation of the Wind River Irrigation Project that has for decades been neglected by the Bureau of Indian Affairs. Additionally, these funds could be leveraged to acquire additional funding from the State of Wyoming. While we understand that S.715 is not pending before the Indian Affairs Committee, the Eastern Shoshone and Northern Arapaho Tribes ask for your individual support in successfully moving the bill forward. The Reclamation Fund now has surplus funds in it, certainly more than has ever been expended in any year and we live in the middle of one of the Reclamation States. It is really not fair that Indian Irrigation projects have not previously been able to tap into this fund.

The Tribes have compiled a successful track record doing rehabilitation work on the project. In 2003, the Wyoming Legislature passed House Bill 144 which allowed the Tribes to participate in state funding toward water development projects. That bill was strongly supported by both the Joint Business Council and the Wind River Water Resource Control Board.

In 2004 in an effort to facilitate the rehabilitation of the Wind River Irrigation Project, the Eastern Shoshone and Northern Arapaho Tribes through the efforts of the Wind River Water Resource Control Board applied to and were granted a \$3.5M grant from the Wyoming Water Development Commission to aid in the rehabilitation of irrigation structures that were in dire need of repair or replacement. This State Appropriation was a 50% grant that required an additional \$3.5M in matching funds before the State funds could be used. Once again through the efforts of the Wind River Water Resource Control Board in conjunction with the efforts led by Senator Mike Enzi, a Federal appropriation of \$3.72M was secured in 2005 and 2006 as matching funds for the \$3.5M in State funds.

These funding sources were utilized to rehabilitate 15 major structures that were crucial to the operation of the irrigation system and were considered to be in critical need of repair or replacement. These structures include: the Johnstown and Lefthand Ditch diversion and waste-way structures on the Big Wind River, the Coolidge Canal – Trout Creek diversion

structure, the Mill Creek – Ray Canal Crossing structure, the Ray Canal – South Fork of the Little Wind diversion structure, the Coolidge Canal – Little Wind diversion structure, Ray Canal 11C, 39C and 59C diversion structures, Coolidge Canal 14B diversion structure, the Sub-agency Canal – Little Wind River diversion structure, the North Fork of the Little Wind River diversion chute structure, and the Willow Creek and Meadow Creek diversion structures in the Crowheart area.

Incorporated in the design and construction of the Coolidge and Sub-agency structures are Fish Ladders. In addition to a Fish Ladder, a Fish Screen structure was also designed and constructed on Ray Canal. The fish passage will mitigate the loss of hundreds of thousands of fish to the irrigation system. The fish passage project was a combined effort among the Tribes, the US Fish and Wildlife Service, the Bureau of Indian Affairs, Trout Unlimited and the State of Wyoming.

The total cost of Phase I of the Wind River Irrigation Rehabilitation Project was \$7,713,695.

Without the efforts of the Eastern Shoshone and Northern Arapaho Tribes through the Wind River Water Resource Control Board, even these phases of rehabilitation of the Project would not be occurring.

The current Federal and State appropriations are now depleted. The WRWRCB plans on pursuing additional funds from both the Federal Government and the State of Wyoming. The Tribes and the Wind River Water Resource Control Board request the aid and assistance of both Senators Barrasso and Enzi and the Senate Committee on Indian Affairs to help secure future funding for the ongoing rehabilitation of the Wind River Irrigation System. For this reason, the Eastern Shoshone and Northern Arapaho Tribes, the Wind River Water Resource Control Board and the Office of the Tribal Water Engineer again endorse the Barrasso amendment (title IV) to S. 715, the Authorized Rural Water Projects Completion Act. The 38,300 irrigated acres of the Wind River Irrigation Project are assessed Operation and Maintenance Fees to finance the Irrigation Project's operations, maintenance and administrative functions. These O&M assessments have been historically low, but over the past 20 years these rates have risen from a low of \$10.90 in 1991 to \$22 in 2014. With each irrigation season comes additional assessment costs to cover increased budget shortfalls caused by mandated pay raises for Bureau of Indian Affairs Irrigation Project employees. Even with the rising assessment fees, little rehabilitation efforts have been made.

According to the GAO Report 06-314 dated February 2006, the Wind River Irrigation Project was authorized for construction in 1905 but construction was never completed.

The Wind River Irrigation Project is comprised of 3 storage facilities, 11 canals and 377 miles of canals and laterals. These facilities provide water to 38,300 acres of which 67% is Indian owned and 33% non-Indian owned.

According to the 1994 Natural Resource Consulting Engineers (NRCE) Project Assessment and Plan, no Project-wide rehabilitation of the delivery system has occurred since the 1930's. According to that study due to deferred maintenance over many years, 60% or 1200 structures were in need of repair or replacement and 45% or 190 miles of canals and laterals need repair or reconstruction. According to the study structure failures were routine resulting in the progressive loss of control of Project water and that catastrophic failure of segments of the delivery system was imminent. According to the 1994 NRCE Project Assessment and Plan due to the Project's current configuration, it only has 66 acres of irrigated land per mile of canal. In comparison, Midvale Irrigation District has over 160 acres per mile of canal. As a general guideline, the Bureau of Reclamation suggests that irrigation projects, in the region, need at least 140 acres of irrigated land per mile of canal to be economically self sufficient. The study also stated that the resulting poor delivery performance had contributed to a progressive deterioration in crop quality and the water users' ability to pay assessments. It is apparent that the Wind River Irrigation System cannot be considered self sufficient.

The condition of the Wind River Irrigation Project sadly continues to deteriorate and little has changed since the 1994 NRCE Wind River Irrigation Project Assessment, the 2006 GAO-Report numbered 06-314 or the 2008 HKM Wind River Irrigation Project Engineering Evaluation and Condition Assessment. The 2008 HKM Wind River Irrigation Project Engineering Evaluation and Condition assessment estimated the costs for needed replacement construction to be \$69,640,000. Inflation raises those cost to approximately \$77,091,500 in 2014.

Clearly something needs to be done. While we hope the Congress will enact S. 715 with the Barrasso Amendment, we understand the odds of that happening this year are not good. If funds are not made available to deal with the repairs needed, the project will continue to lose water, and both the Indian and non-Indian people who rely on the project, as well as the fisheries impacted by the project, will all suffer. Allowing for congressionally directed appropriations as Senator Enzi was once able to do for us needs to be brought back and the leaders in the highest levels of the Department of the Interior and at OMB need to be forced to own up to what their neglect of this project has caused.

What follows is a report on the Irrigation Rehab Project for which the Tribes have submitted Level II Phase II Storage Site Study Applications to the WWDC. These studies will identify at least 2 suitable storage sites on each of the Big and Little Wind Rivers. The need for additional storage on the Wind River Reservation has been graphically demonstrated during drought years when irrigators have been shut off early in the summer months as early as the first or second week in July. These photos graphically show what progress looks like, i.e., what we can jointly accomplish when we have the funding as well as demonstrate what happens when maintains is deferred and the project is allowed to deteriorate.

In order for the rehabilitation effort to move forward, it will take a united effort from the Eastern Shoshone and Northern Arapaho Tribes, the Bureau of Indian Affairs, the Wyoming Water Development Commission, and our State and Federal Legislators.

Your strong support of the Tribes and their efforts is of the utmost importance. Our efforts will bring much needed relief to both Tribal and non-Tribal irrigators on the Wind River Reservation.

We look forward to working closely with you now and in the future. If you have any questions or need additional information, please contact the Office of the Tribal Water Engineer at 307-332-6464.

Thank you for your time and consideration.



WIND RIVER IRRIGATION REHAB UPDATE

By

THE OFFICE OF THE TRIBAL WATER
ENGINEER

The Wind River Water Resource Control Board and the Office of the Tribal Water Engineer appreciates this opportunity to up-date the members of the United States Senate Committee on Indian Affairs on the progress of the Wind River Irrigation Rehabilitation Project.

In 2004 the Wyoming State Legislature appropriated \$3,500,000 thru the Wyoming Water Development Commission to assist in the rehabilitation of the Wind River Irrigation Project. These funds were matched with two Federal appropriations in 2006 and 2007 totaling \$3,722,500. The combined funding was utilized to rehabilitate irrigation structures in critical need of repair. To this date the total estimated cost of rehabilitating the Irrigation Project remains in the \$90M range.



Ray Canal Diversion Structure and Fish Passage

During the 2010- 2011 and 2011-2012 construction seasons the following rehabilitation project structures were completed:

- Coolidge – Trout Creek Diversion Structure
- Johnstown Diversion Structure
- Lefthand Ditch Diversion and Waste Way Structures
- Ray Canal – Mill Creek Crossing Structure

- Ray Canal Diversion Structure
- Coolidge Canal Diversion Structure
- Ray Canal Fish Screen Structure
- Structures: 39-C, 11-C, 59-C, and 14-B

Total cost of rehabilitating these structures was \$5,097,095.

In addition to replacing the Ray and Coolidge Canal diversion structures, fish ladders were installed on both diversion structures to enable aquatic life to migrate the stream above and below the diversion structures. A fish screen structure was also constructed in the Ray Canal down stream of the diversion structure. The fish screen will prevent the loss of thousands of fish to the Ray Canal irrigation system. The fish screen structure was built thru the collaborative efforts of various agencies. Funding partners for the fish passage and screens were: USF&W, Trout Unlimited, the Wyoming Wild Life Trust Fund, BIA Wildlife Resources Branch, the WWDC and the Eastern Shoshone and Northern Arapaho Tribes. These funding partners contributed an additional \$720,760.



Ray Canal Fish Screen

The 2013- 2014 construction season brought this phase of the Wind River Irrigation Rehabilitation Project to a close. WWDC and Federal Funding have been depleted with the start of the 2014 irrigation season. Projects constructed during this period were:

- North Fork Chute
- Willow Creek Diversion Structure
- Meadow Creek Diversion Structure
- Sub-agency Diversion Structure

The total construction costs of these structures were \$2,616,599.29.



Sub-agency Diversion Structure





Meadow Creek



Willow Creek



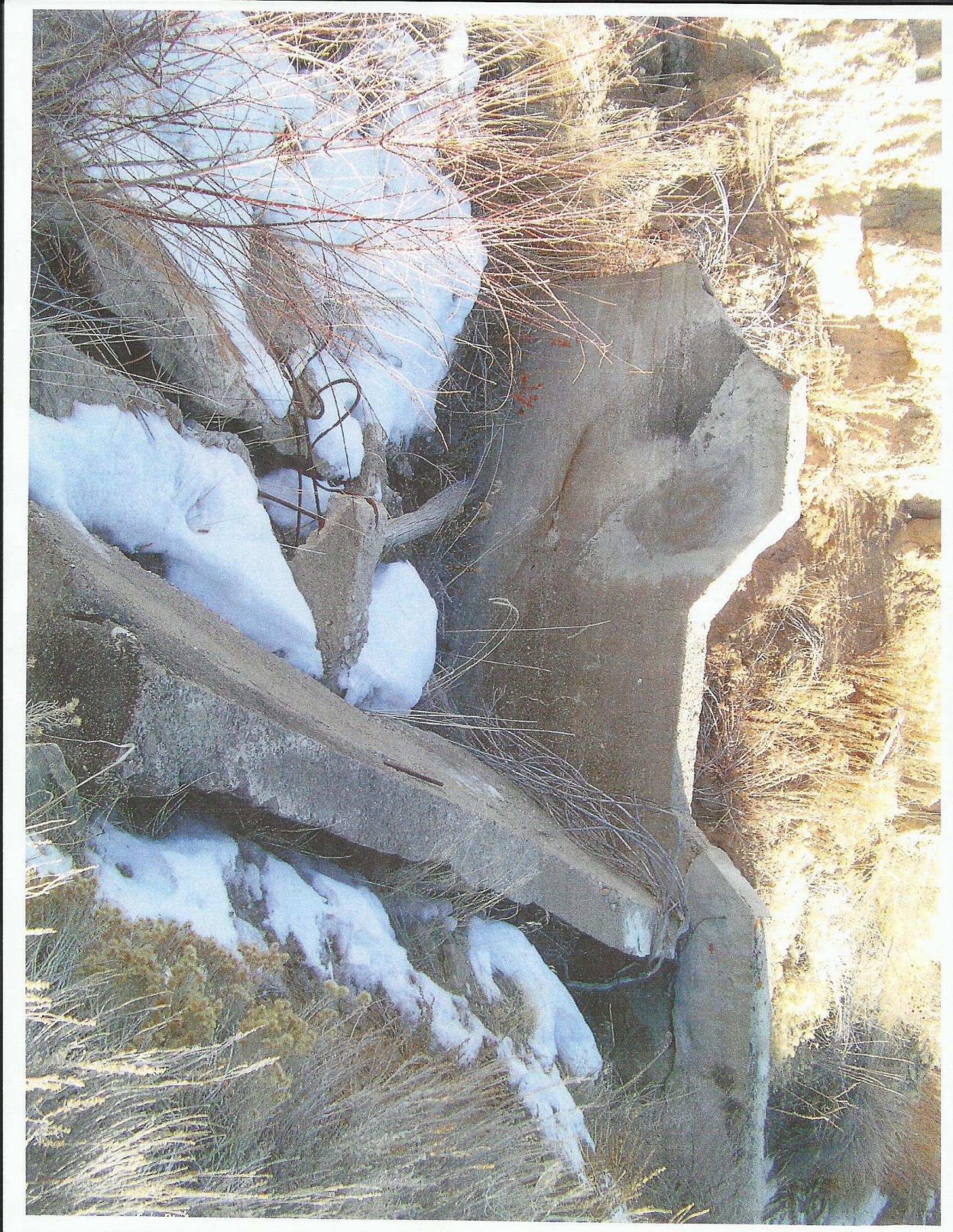
North Fork Chute

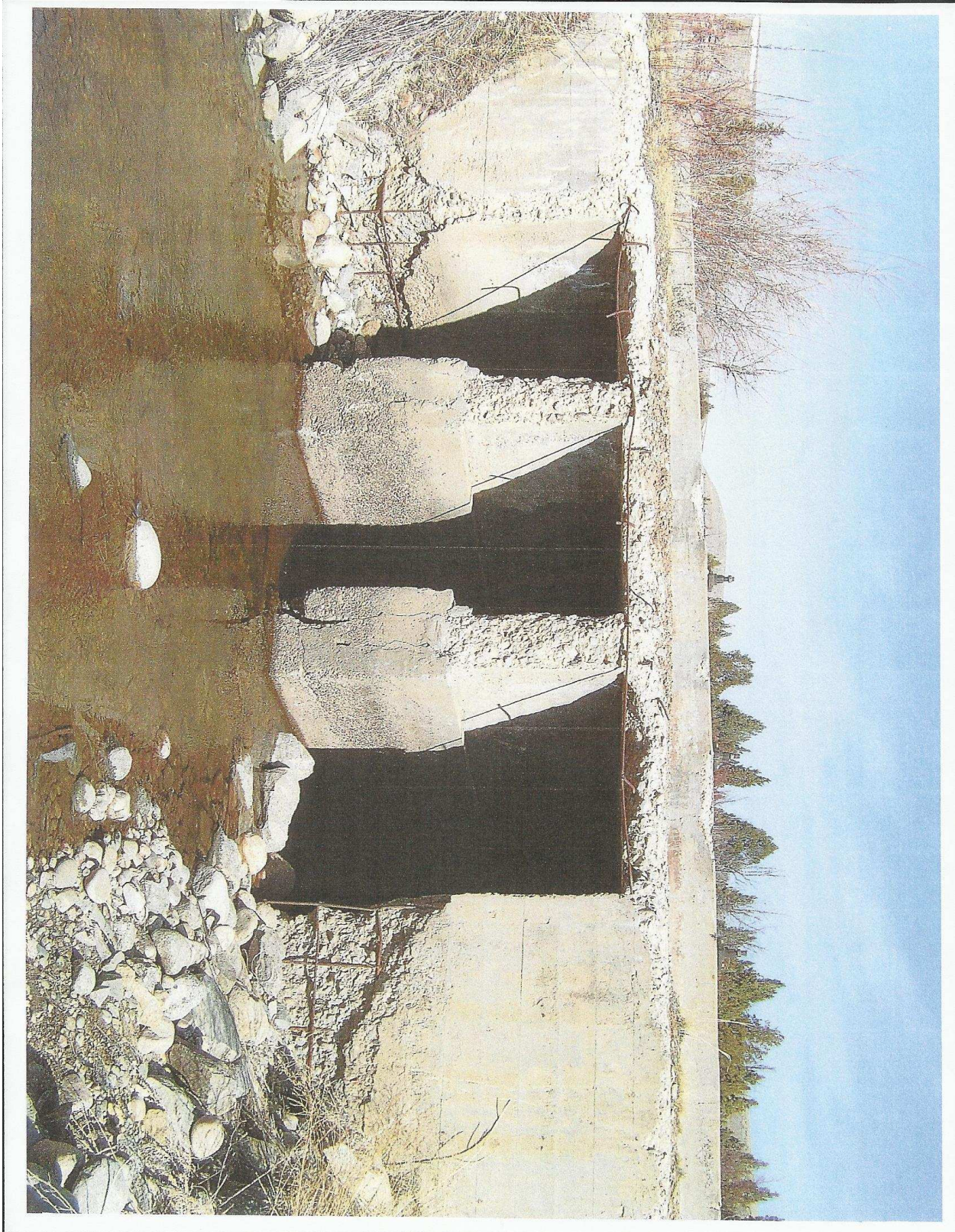
It should be noted this rehabilitation project has provided an economic boost to Fremont County, the State of Wyoming and the Wind River Indian Reservation. State and local contractors and sub-contractors have been utilized during the construction projects. These contractors include:

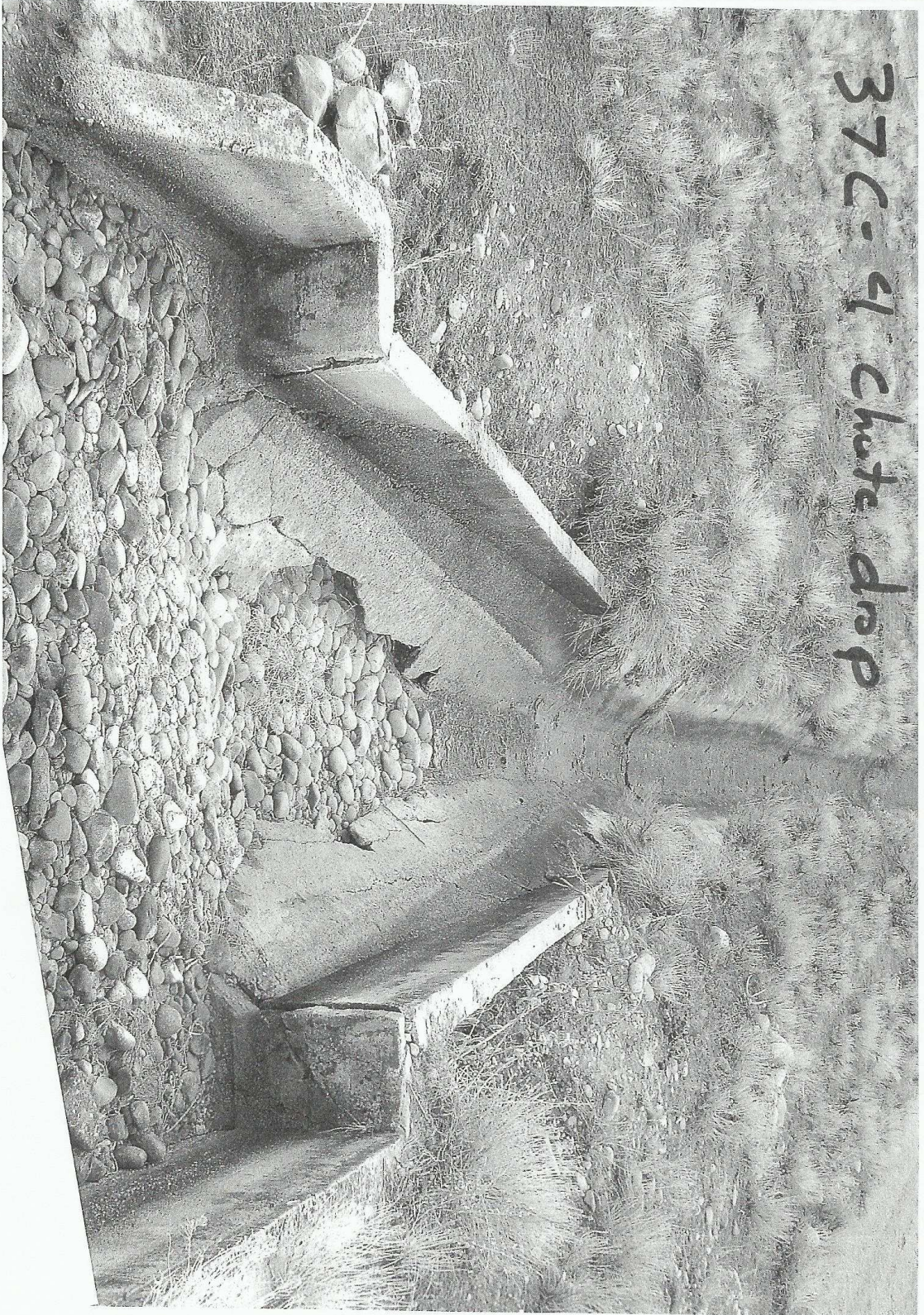
- Inberg-Miller Engineers (Riverton, WY)
- Lowham Walsh LLC (Lander)
- Dowl HKM (Lander)
- High Country Construction (Lander)
- 71 Construction (Riverton)
- Reiman Corp. (Cheyenne)

This phase of the Irrigation Rehab Project has barely scratched the surface of the overall needs of the Wind River Irrigation Project. As stated before the estimated cost of total rehabilitation is in the \$90M range. The Office of the Tribal Water Engineer has begun the process of developing a Phase III list of priorities for rehabilitation. This list and a cost estimate will be brought to the WWDC during the next funding cycle, in November of 2014.

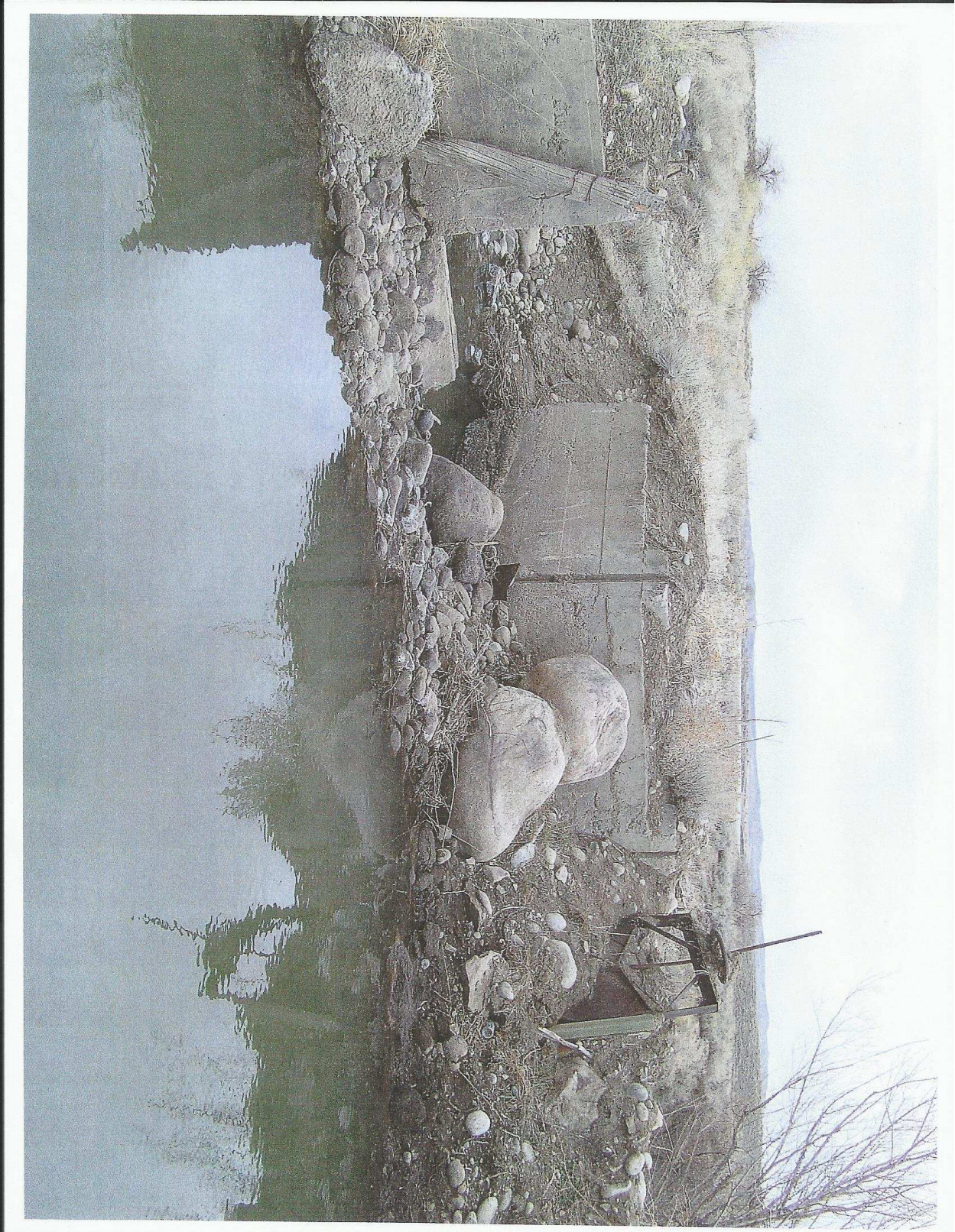
The following are photos of structures that will appear on the Phase III priority list:





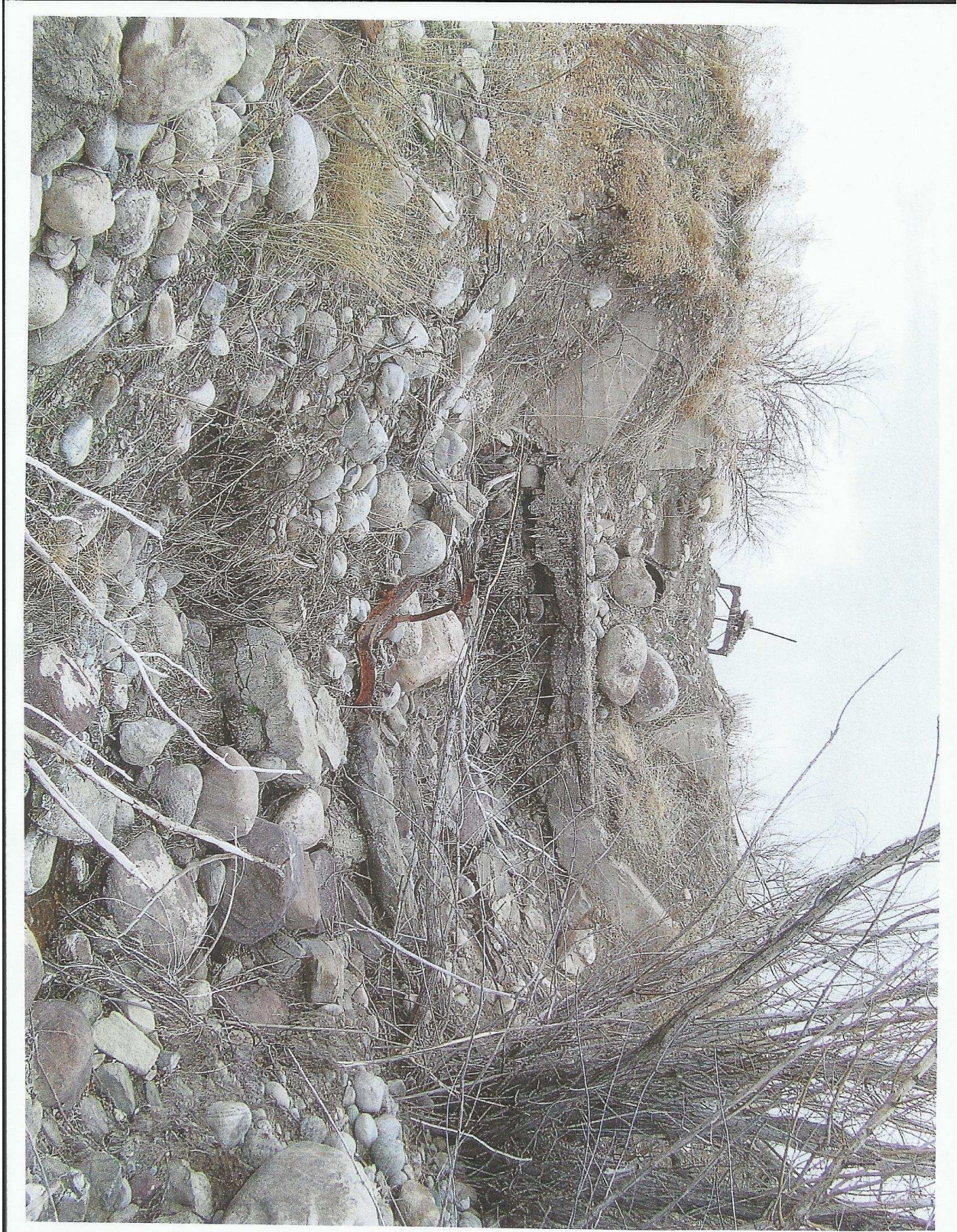














BIA M.F.K. Diversion Structure

