

**BEFORE THE UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS**

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SOUTHERN UTE INDIAN TRIBE

Hearing on the Pine River Indian Irrigation Project Act of 2010

April 29, 2010

I. INTRODUCTION

Chairman Dorgan, Vice Chairman Barrasso, and members of the Committee on Indian Affairs, I am Lena Atencio, Director of the Department of Natural Resources for the Southern Ute Indian Tribe. The Tribe's Water Resources Division is a part of my department and so I am the senior manager in charge of the Tribe's water resources. I am here to provide a technical perspective in support of Chairman Box's testimony.

I too am honored to appear before you today to provide this testimony regarding legislation that is so important to our Tribe. I too wish to thank our two Senators, Mr. Udall and Mr. Bennet, for their efforts on behalf of the Southern Ute Indian Tribe in this matter. I would add that the Tribe hopes that this hearing represents a commitment by Congress, the Southern Ute Tribe, the Bureau of Indian Affairs (BIA), and the Bureau of Reclamation (BOR) to come together to resolve a long-standing problem that cannot be allowed to continue given its impacts to the Tribe, the regional economy, and the management of water in the West as a whole.

My testimony in support of the Chairman's is intended not only to provide technical information but to demonstrate the Tribe's determination to working cooperatively to get this long-standing problem resolved.

II. FUNDING NEEDS

The Chairman has explained the purpose and intent of the PRIIP Act and I would like to provide additional detail.

It has been noted that the initial purpose of the PRIIP itself was to aid the federal government's encouragement and expectation that the Southern Utes and other Tribes embrace agricultural production as the economic base for their reservations. Studies done through history (the 1928 Preston-Engle Report, the 1969 Designation Survey for the PRIIP, and a 2009 Preliminary Agricultural Analysis of Southern Ute Irrigated Lands) confirm that the Southern Ute Tribe has increased its agricultural activities even as the PRIIP has deteriorated. The Tribe has therefore arguably met its obligation even as the federal government has left their obligation not fully addressed.

The extent to which maintenance has been unaddressed is an important question in any consideration of funding. There is an engineering condition assessment (HKM Study) that was recently completed conducted by the BIA for this irrigation project that provides guidance. As the Chairman noted, it identified at least \$20 million in replacement costs for facilities on the estimated 170 miles of ditches on the project that are intended to serve the PRIIP's approximately 12,000 acres. The Tribe, recognizing that the HKM Study received limited funding and, in order to have confidence in its discussions with Congress, used its own engineering consultant to evaluate the HKM Study. The Tribe's consultants confirmed the validity of these replacement cost estimates while acknowledging that additional work would be needed to improve the accuracy of cost estimates and to effectively implement any rehabilitation work authorized by Congress. There are estimates for remediation costs in this study that are

somewhat less than the identified replacement costs, but the limited scope of the HKM Study leaves these estimates in question.

Although the HKM Study provides an important base for considering funding issues, it leaves detailed engineering work incomplete. This is why the proposed PRIIP Act provides funding for additional condition assessment work. The first year condition assessment work envisioned under the PRIIP Act will finally provide the complete engineering evaluations needed to deal with this problem. The \$4 million called for in the legislation represents the best available estimate for comprehensively assessing the condition of the PRIIP.

Tribal staff believes that a six year timeframe with a \$10 million per year appropriation as presented in the PRIIP Act is reasonable for dealing with this problem. The total appropriation would be consistent with the highest estimates of funding needing to fully rehabilitate the PRIIP (\$60 million) and the annual amount would be consistent with the need to allocate sufficient resources to address the unique situation presented by a deteriorating irrigation project. Rehabilitation work on irrigation systems presents challenges relative to balancing the limits of the construction seasons and the need for irrigators to continue work that preserves the agricultural economy. Typically, if significant funding resources are allocated, construction resources could be mobilized that would allow for significant work to be accomplished in relatively short periods. The Tribe believes a sufficiently high level of annual funding will be needed to accomplish the work in the planned six year timeframe.

III. BENEFITS

The benefits that would result from rehabilitation of the PRIIP include economic benefits, improved efficiencies in water use, and environmental enhancement.

A. Economic Benefits.

Although there has not yet been a comprehensive economic analysis of the direct and indirect benefits of PRIIP rehabilitation, enough work has been done that it is clear that a failure to act will have significant impacts to the area's economy.

Preliminary analysis suggests that direct benefits to Tribal irrigators alone exceed \$2.5 million annually. Combine these economic benefits with direct benefits to the non-Indian agricultural producers under the PRIIP and the benefits would be expected to grow proportionately. Include consideration of indirect benefits to the local economy as a whole and the value of rehabilitating the PRIIP becomes readily apparent. A failure to maintain the PRIIP's condition means that some decrease in the productivity of the production on the project is inevitable, though it would be recognizably difficult to quantify. There are also benefits that would accrue not from preventing production declines, but rather from making production improvements possible in crop yields and livestock production.

Consideration of any Congressional funding of infrastructure improvement should also recognize that investments in these improvements would provide benefits and lessen costs over a significantly long period of time extending into the future.

B. Efficiency Benefits.

The presence of delivery inefficiencies in a system as old as the PRIIP is a foregone conclusion, although the Tribe recognizes that only limited work to evaluate this issue has been conducted. The Tribe and BOR have cooperatively conducted a

limited study of system ditch losses and found that water losses could be significant. During the time that the Tribe's water rights settlement was being resolved, the environmental community frequently pointed to irrigation infrastructure as an area where increased efficiency in water delivery could be beneficial by lessening demand on resources. Rehabilitation of the PRIIP could reasonably be expected to address and mitigate this problem.

There would also be some benefits on a regional scale to improving efficiency. The allocation of limited water supplies in the West has led to a long history of conflict, both legal and otherwise. Improved efficiency in water usage is universally viewed as one avenue for reducing interstate conflicts such as those that exist throughout the Colorado River system.

C. Environmental Benefits.

The environment will benefit from PRIIP rehabilitation in two ways: better condition of the land and lessened demand for water resources.

Directly, there is a benefit to the land such as that which occurs when the land is properly maintained and cared for. Improperly maintained land inordinately suffers from erosion, weed infestations, and reduced yields that place greater environmental demands on producing lands. The Tribe has made great strides in recent years in assuming an ever greater role as stewards of the land. Improving the availability and use of irrigation water will serve to limit these types of environmental degradation and is consistent with the Tribe's goals to care for the land.

Indirectly, improved water delivery efficiency serves to lessen demand for increasingly scarce water resources in a manner that can result in greater water availability for the environment.

III. INDIVIDUAL IMPACTS

The discussion of the condition of the PRIIP is challenging, but straightforward enough in a conceptual framework. More difficult is considering the problem in a manner that recognizes its impacts on individual Tribal members. Many members face challenges in agricultural production and land management as a result of the problems on the PRIIP. There are direct impacts when a member cannot depend on consistent delivery of water and their crop yields suffer as a result. There are broader impacts when an individual member invests time and effort in raising a crop and yields are reduced by inconsistent or ineffective deliveries. There are some parts of the project that do not even receive water due to failed ditches.

The initiation of the irrigation season is a perfect example of how funding deficiencies affect individual irrigators under the project. Insufficient staffing, combined with the need to have BIA staff continuously implement immediate responses to failed infrastructure mean that the actual timing of the first water deliveries is never certain. Deliveries are typically delayed and crop yields through the season suffer as a result. As a result of this and other deficiencies, individual irrigators are left with uncertainty as to the returns on the energy and money they invest in production. Nonetheless, these irrigators have seen operations and maintenance fees for the PRIIP nearly double over the last five years. These increases have occurred despite confirmation from an earlier federal study

that users could not afford any fee above \$8.50 and still maintain a profitable farming operation.

IV. CONCLUSION

The PRIIP Act is not only necessary to fulfill the federal responsibilities for adequate maintenance of the PRIIP that have been ignored for so long, it is essential for the economic health and diversity of the Tribe, the efficient use of an increasingly scarce resource, and to provide economic opportunity to Tribal members equivalent to that found on non-Indian irrigation projects.

There are national implications from the rehabilitation of the PRIIP as well as local implications. The efficient use of water contributes to the stability of western economies and the Tribe believes that the rehabilitation of the PRIIP can not only serve to meet unmet federal obligations to this Tribe, but can serve as an example to all of the West as a model of how to cope with 100-year-old and continually aging irrigation infrastructure.

The Tribe as whole, but the Department of Natural Resources in particular, supports all efforts to address this long-standing resource management problem. The Tribe and its technical staff stand ready to work cooperatively with any and all parties and we encourages Congress to take the steps necessary to make full federal support, both in funding and in technical expertise, available to the task.

I thank you for your time and for your consideration of this issue.