

FORT PECK TRIBES

Assiniboine & Sioux

**TESTIMONY OF CHARLES HEADDRESS, SR.,
EXECUTIVE BOARD MEMBER OF THE
ASSINIBOINE AND SIOUX TRIBES OF THE
FORT PECK RESERVATION**

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

**on
S. 438, the IRRIGATE Act**

MARCH 4, 2015

Good afternoon Chairman Barrasso and Vice-Chairman Tester. My name is Charles Headdress, Sr., and I am member of the Fort Peck Tribal Executive Board, the governing body of the Assiniboine and Sioux Tribes of the Fort Peck Reservation. I want to thank you for holding this hearing on S. 438, the Irrigation Rehabilitation and Renovation for Indian Tribal Governments and their Economies (IRRIGATE) Act. I also want to express my appreciation for two of the bill's co-sponsors: Senator Tester for the invitation to testify today; and Montana's junior Senator Steve Daines for his interest on this important subject and in serving on this important Committee.

The Fort Peck Reservation encompasses 2.1 million acres—over two thousand square miles—in remote northeastern Montana. The Assiniboine and Sioux Tribes and individual Indian allottees own about 1 million acres of land on the Reservation. Nearly 10,000 people live on the Reservation, of which roughly two-thirds are Tribal members and non-member Indians.

The development of an irrigation project for the Fort Peck Reservation was an integral element of the plan and obligation that the federal government assumed when it established our Reservation. After our Reservation was created, the federal government, using military force, prohibited our people from leaving the Reservation to hunt the game on which we historically depended to meet all of our most basic needs. The government instead sought to have us engage in farming and ranching. But the Reservation resources were not sufficient to do this. After several years of drought and starvation among our people, the government recognized the need to develop irrigation so that we might, in fact, survive by agriculture.

The Fort Peck Irrigation Project was formally authorized by the Act of May 30, 1908. Importantly, pursuant to this 1908 Act, it was the Bureau of Reclamation that was charged with direct responsibility for materials, workmanship, and economy of construction of the irrigation system. Congress recognized that the Bureau of Indian Affairs did not have the capability of constructing the kind of irrigation project that was needed at Fort Peck. When Congress enacted this legislation it intended to provide the Fort Peck Tribes with the means to become self-supporting through the development of agricultural and grazing lands. Accordingly, the project was planned with the intent of irrigating up to 152,000 acres of land. Unfortunately, for a

number of reasons associated with various failed federal policies – including allotment, removal of children from homes (which impeded the ability to run family farms, as there were no families), and the levying of construction debt against trust property – this never came to be.

Instead today, the Fort Peck Reservation Irrigation Project consists of two irrigation units: the Wiota Unit and Frazer-Wolf Point Unit. Together these units irrigate only 18,953 acres, approximately 12% of what was initially planned to serve my Reservation to meet the needs of my people. Out of these 18,953 acres, only 9,758 acres remain in trust, with the other 9,195 acres held in fee status. Some of the fee lands are owned by Tribal members.

The current condition of the Fort Peck Reservation Irrigation System is worse than poor. The national backlog of deferred maintenance on irrigation projects is in excess of \$600 million. According to the BIA's 2014 Q4 Deferred Maintenance Report, the total backlog deferred maintenance for the Fort Peck Project is \$12.7 million.

The impact of this deferred maintenance on the economy of the Fort Peck Tribes cannot be understated. Throughout the history of the Reservation the income generated by the farming and grazing has been a mainstay for the Tribes and Tribal members. Even in the years when there was an oil and gas boom for the Reservation, the revenue generated from grazing and agricultural leasing of the Tribes' trust lands was still approximately 30-50% of the Tribes' total trust income. In more recent years, where revenues from oil and gas have declined, the agricultural revenues are at the heart of funding Tribal government operations, programs, and services that are so critically needed by our people. The repair and restoration of the irrigation system is also key to creating jobs. The Fort Peck Reservation's unemployment rate has hovered above 50% for most of the last two decades. Poverty among our members remains at epidemic levels, as illustrated by the fact that more than 80% of our children are eligible for free or reduced-price school lunch. We have to do more to put our people to work and lift our children out of poverty. It is time for Congress to fulfill the original promise of the 1908 Act to make our Reservation self-supporting.

Thus, the Fort Peck Tribes stand in support of the IRRIGATE Act. This Act will address the \$600 million tribal irrigation maintenance and repair backlog by allocating from the Reclamation Fund, \$35 million each year from 2015 through 2036, into a new account in the Treasury called the Indian Irrigation Fund.

For those who might say this is not an appropriate use of the Reclamation Fund, we would like to correct them. The use of the Reclamation Fund to repair the Fort Peck Irrigation Project is entirely appropriate and is in fact, exactly the purpose for which the Reclamation Fund was established. The Fort Peck Project was originally developed as a Reclamation Project. The fact that the project could not generate revenues necessary to maintain itself is a consequence of Reclamation's failure to do its job right in the first place.

In this regard, the Tribes ask that the legislation be clarified to state that use of these funds to repair these Tribal irrigation projects is not a reimbursable expense. In the past, when money was appropriated to repair tribal irrigation projects, the Department deemed it to be reimbursable and levied additional assessments against the users. Currently, the unpaid

construction debt on Fort Peck Reservation system is \$7 million. Almost two decades ago, the Bureau of Reclamation did an analysis of the users' payment capacity and found it to be \$15.50 per acre (\$14.00 in O&M and \$1.50 in construction repayment). Those figures would have meant it would have taken 250 years to satisfy the construction debt. Demanding repayment was not realistic then and it is not realistic now. We do not believe you intend the funds to be provided by the IRRIGATE Act to be added to the Project's construction debt, but given the Department's past positions, we urge that the legislation make clear that the funds provided are not to be subject to repayment by the users.

Moreover, to ensure the viability of the Fort Peck Project, we urge Congress to forgive the existing project debt. The amount of idle acreage continues to increase because landowners and potential lessees cannot afford to bring the debt current to get water delivered to the property. This both leaves the land idle, and decreases its value. As a consequence the Fort Peck Project is under-serving the intended project area. Even more troubling, we have heard from fractionated landowners within the Project that the government has become increasingly aggressive in seeking to recover Project debt. The Tribes at Fort Peck have been urging Congress to address this unfairness since 1993. While the Secretary has the authority to forgive this debt, our pleas have fallen on deaf ears. Congress has forgiven irrigation project debt in the past, including past debt for the Fort Peck Project, and we urge Congress to act now to forgive the current debt.

Beyond strengthening our tribal economy, repairing this project and addressing its debt would help preserve our resources. We are all aware of the need to use our resources efficiently, and there is no natural resource more precious to our people than water. This is especially true when the West is facing some of the worst droughts this Nation has ever experienced. By repairing and maintaining this Project, we will be ensuring that the water resources that the Fort Peck Tribes have fought so hard to protect are used wisely and efficiently.

In this regard, last Congress both the Chairman and the Vice-Chairman supported a similar bill in the Senate, the Rural Water Projects Completion Act, which was approved by the Senate Energy and Natural Resources Committee. Senator Daines introduced a companion bill during his tenure in the House. In addition to addressing the irrigation project maintenance and repair backlog, these bills would have created a mechanism to complete the several Rural Water Projects that have been authorized by Congress. These Projects include the Fort Peck Reservation Rural Water System and the Rocky Boy's North Central Project. The fate of our Reservations rests on the health of our people, and the health of our people depends on the water we drink. I know that Senator Tester knows this. There is probably no other United States Senator who cannot drink the water that comes from his kitchen sink, but I know that is the case for Senator Tester. Thus, I would urge the Committee as you take up this bill to follow the leadership of Senators Tester and Daines to amend it to include provisions that would also ensure that these rural water projects can be completed on time.

I would like to thank you for your time and interest in this vitally important matter, and I would be happy to answer any questions.