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S. 439, THE INDIAN DEVELOPMENT FINANCE CORPORATION ACT; S. 2802, THE BLACKFOOT RIVER LAND SETTLEMENT ACT OF 2009; AND S. 1264, THE PINE RIVER INDIAN IRRIGATION PROJECT ACT OF 2009

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

APRIL 29, 2010

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THURSDAY, APRIL 29, 2010

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:15 p.m. in room 628, Dirksen Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

The CHAIRMAN. We are going to call the meeting to order. This is a hearing on bills to address tribal economic development, a lands claim settlement and an Indian irrigation project. We have been requested by our colleagues in the United States Senate to hold hearings on these pieces of legislation: S. 439, S. 2802, and S. 1264.

S. 439 is the Indian Development Finance Corporation Act; S. 2802 is the Blackfoot River Land Settlement Act; and S. 1264 is the Pine River Indian Irrigation Project.

One bill brings a creative approach to increasing tribal economic development opportunities in Indian Country. One bill will resolve an ongoing land dispute. And the third bill will bring much-needed attention to an irrigation project.

And we look forward to hearing from witnesses about each of these bills.

The first two witnesses will present their views on S. 439, the Indian Development Finance Corporation Act. That bill will create an Indian Development Finance Corporation to give tribal businesses new sources of capital, financial services, and technical assistance. The goal of this bill is to increase economic development opportunities in Indian Country.

Then we will hear testimony on S. 2802, the Blackfoot River Land Settlement Act. This would settle a longstanding land dispute between the Shoshone-Bannock Tribe, individual tribal landowners, and non-Indian landowners in the State of Idaho. The parties have reached a settlement on the land dispute and this legislation would codify that settlement. Congressional action is now needed to pre-

vent a lengthy and costly legal case and to allow all of the parties full use of their land.

Finally, S. 1264 is the Pine River Indian Irrigation Project Act. This bill will bring attention to the Pine River Indian Irrigation Project located on the Southern Ute Indian Reservation in Colorado.

The irrigation project is one of nine projects highlighted in a 2006 Government Accountability Office report. The report found that this project is suffering from management issues and in need of critical repair. Estimates for repairing the project are between $20 million and $60 million. The legislation that we will hear today would require the Secretary of the Interior to develop a plan and to address the needs of this project.

With that, I welcome the witnesses. I know that many of you have traveled a long distance to be with us today and we appreciate your willingness to testify. We have two witnesses for each bill, so I ask that you limit your remarks to five minutes. Your full written statement will be made part of the permanent record today, and that will also remain open for two weeks for any submission by others who wish to add their voices to the testimony at this hearing.

We will also be asking the Administration for their formal views on each of the bills before we move forward with them following this hearing, although the Administration, I would say, will testify on one of the bills today.

Are there any other Members of the Committee that wish to add something?

Senator Franken?

STATEMENT OF HON. AL FRANKEN, U.S. SENATOR FROM MINNESOTA

Senator FRANKEN. All these bills are of tremendous importance to Indian Country. The Indian Development Finance Corporation Act is one of importance to Minnesota tribes. I want to apologize because I am going to have to leave very soon to preside over the Senate. So I will just ask that my opening statement be inserted into the record.

The CHAIRMAN. Without objection, and we thank you for being here. I understand that you have to preside.

[The prepared statement of Senator Franken follows:]

PREPARED STATEMENT OF HON. AL FRANKEN, U.S. SENATOR FROM MINNESOTA

I'd like to thank the Chairman for hold this hearing on several pieces of legislation that are important to Indian country. I apologize that I have to leave shortly to go preside on the Senate floor, but I want to say a few words and submit a couple of questions for the record.

A broad range of challenges face Indian country today, and one of the major issues underlying these challenges is the need for economic development and job creation to pull people out of poverty.

One of the bills we're considering is the Indian Development Finance Corporation Act, which would create a new federal corporation to promote business development in Indian Country.

Indian reservations have unique challenges in attracting business investment, and aspiring Indian business owners often face difficulty accessing financing to start or scale up their business.

In Minnesota, we have Tribes and community development institutions that are addressing these challenges head on.

For example, the Leech Lake reservation in Minnesota has adopted the Tribal Secured Transaction Act into its Tribal Law. This provides the Tribal government with the legal structure necessary to facilitate borrowing for business and economic development from off-reservation lenders or other Tribes.

There are also innovative examples from lenders and community development organizations. The Midwest Minnesota Community Development Corporation, based in Detroit Lakes, Minnesota, has launched a pilot program that provides forgivable loans to Indian entrepreneurs who complete an online training program and subsequently report on the implementation of their business plan. This is a spinoff of a program that Senator Tester's state of Montana has implemented, and it has promise to provide Indian business owners with the equity necessary to secure loans to invest in Indian country.

These are the types of solutions we need to be looking for and scaling up to foster development of businesses by members of Indian tribes. This is absolutely critical to addressing the challenges of poverty and economic development that Tribal communities face across the country. I appreciate this Committee's attention to these issues today, and look forward to receiving responses to my questions. Thank you.

The CHAIRMAN. Let me begin the witnesses' testimony today with Mr. Alan Parker, Professor of Advanced Studies in Tribal Government, Evergreen State College in Olympia, Washington.

Mr. Parker, you may proceed.

STATEMENT OF ALAN R. PARKER, PROFESSOR, ADVANCED STUDIES IN TRIBAL GOVERNMENT, EVERGREEN STATE COLLEGE

Mr. PARKER. Okay, thank you

I would like to try to summarize my testimony by emphasizing a couple of key points. One is drawing a distinction between the role of a development bank as compared to investment banks or commercial banks, which is the ordinary bank you see up and down the streets of Main Street. Anyway, I am not sure about Wall Street.

And also then to talk about the role of an IDFC, development finance corporation, in assisting tribes to work together. That is, it would create opportunities for business partnerships between our gaming tribes, who in many cases have been very successful with their casino gaming opportunities, which as we know are authorized under the Indian Gaming Regulatory Act, and the tribes that are located far from the marketplace where casino gambling can be carried on successfully.

In my work over the years with many tribes, I know that the leaders within the successful gaming tribes are very interested in trying to assist their neighbors, their compatriots to develop their potential resource base or potential opportunities that are unique to them in their location, but they are very uncertain in how to proceed because there is a question of risk out there in Indian Country.

So I think the development bank that Senator Inouye's bill proposes to establish provides some very important tools to help the investor, such as some of our successful gaming tribes predominantly, help them to essentially gain some comfort in terms of investing their own capital into the development of a project that is, say, in one of the Dakota States. Where maybe there is great potential for a windmill farm, but there is an up front investment of capital that would be required, or in other areas of Indian Country.

I live now up on the West Coast and many of the tribes I think have been interested for years in trying to create their own com-

mercialized fishing industries, making highest and best use of their rights to harvest 50 percent of the salmon which they gained under Supreme Court decisions.

But yet, if you are a tribe, for example, one of my good friends is one of the leaders with the Makah tribe way up in the far northern tip of Washington State. They see a real potential for both creating a commercial fishery, as well as wave energy production. Their thoughts are that if we try to reach an agreement with a big commercial fishing company, we give up control. We want to be able to maintain a controlling position in any company that is created to make use of our commercial fishery harvest.

Now, as to the opportunity for wave energy production, as you know, there is a huge interest all across the Country in alternative energy development, and as I mentioned a few minutes ago, opportunities to create windmill farm operations, solar cell banks, *et cetera*.

I think those tribes who are near the areas where those might be good opportunities have nonetheless really been hindered in terms of trying to go forward with a bond issue or such because they have nowhere to turn to. Not only as good business partners that can bring some capital to the table, but also the technical expertise that is required to engage in a bond issue.

So again, this is the role of the Development Finance Corporation that is envisioned in Senator Inouye's bill, to create opportunities for partnerships with those tribes who have achieved success.

And as we know from the record that the numbers of tribes who have succeeded in casino enterprises do not represent a significant percent of the overall population in Indian Country. They are small tribes located near metropolitan areas on relatively small land bases. The larger tribes out in the Great Plains areas and the Rocky Mountain areas are the ones who have not benefitted from gaming opportunities.

I think to find a way to effectively bring them together and to create successful partnerships would be a very worthy goal.

Mr. Chairman, I see that my time has nearly run out, but again very much thank you for the opportunity and we hope that this bill can move ahead expeditiously in the time remaining in this session of Congress.

[The prepared statement of Mr. Parker follows:]

PREPARED STATEMENT OF ALAN R. PARKER, PROFESSOR, ADVANCED STUDIES IN TRIBAL GOVERNMENT, EVERGREEN STATE COLLEGE

Chairman Dorgan, Vice Chairman Barrasso, and Members of the Indian Affairs Committee, I want to thank you for the opportunity to testify today on this important legislation that would establish a Development Finance Institution to serve the economic infrastructure needs of Tribal Nations across the United States.

Historical Background to the IDFC Proposal: As you may know, Senator Inouye's bill, S. 439, was originally introduced in 1987 during the 1st Session of the 100th Congress. At that time, it was my privilege to serve as Staff Director of the Committee on Indian Affairs under the Chairmanship of Senator Inouye. Shortly after he appointed me to the position of Staff Director in the spring of 1987, I informed him that I had been involved with developing a proposal that grew out of the work of the Economic Development Task Force of the *American Indian Policy Review Commission (AIPRC).* The AIPRC was established by a Joint Resolution of the U.S. Congress in 1975 and completed its work in 1977.

The Economic Development Task Force recommended that Congress adopt legislation to create a "Development Bank" type of institution to be modeled after the re-

gional development banks created by the World Bank. The AIPRC recommendation was based on the analysis that the economic conditions that prevailed across Indian County were very similar to the conditions in so-called "Third World Countries". The World Bank, created shortly after World War II, was intended to help such "Third World Countries" recover from the War and the impacts of over a century of colonialism practiced by European Nations in those areas of the World. The World Bank created a model for "development" finance institutions that could assist its client nations in creating the economic infrastructure needed for the development of sustainable local economies.

The development banks that the World Bank established to serve lesser- developed national economies, were empowered to address the lack of privately-owned networks of financial institutions, the lack of transportation infrastructure and energy development systems by creating an electric power grid and supply electricity for consumer needs and public institutions such as schools and hospitals. They also assisted with technical help in creating legal and political institutions that could serve as a foundation to support trade and commerce.

The IDFC bill that was introduced by Senator Inouye in 1987, (S. 721) was based on the final report and recommendations of the American Indian Development Corporation (AIDC), a private non-profit organization staffed by a talented team of Native American business development experts, which had conducted research on the track record of World Bank-sponsored regional development banks. AIDC was funded by the Administration on Native Americans and conducted its work with the assistance of economists, academics and officials from development finance institutions. They summarized their study and recommendations by concluding that the bill should create an independent, mixed ownership, federal corporation, and the Corporation should be designed to function as a stock corporation empowered to issue stock with voting rights to every Native nation that wished to purchase the stock. Their thoughts were that the stock-shareholder relationship would serve as a method to ensure accountability of the IDFC to its tribal shareholders as well as, of course, the Federal agencies that would normally be assigned to exercise supervisory duties. It would be authorized to issue "Capital Stock" to the Federal Government in two increments, $20 million soon after the bill was enacted into law, and an additional $80 million as soon as there was a demonstration of willingness on the part of tribal nations to participate in the corporation as evidenced by the time when 10 percent of the authorized 500,000 shares of Tribal stock had been purchased by tribes.

This initial group of "tribal shareholders" would be authorized to convene a shareholders meeting and elect their own governing board. In the interim period following passage of the bill, an initial governing board would be appointed by the Secretary of Interior, with recommendations from Tribal leaders, and the members of the governing board were expected to establish, with the help of the Secretary of Interior, an office within the Department of Interior that could organize itself to issue the initial tribal stock offering. They were also expected to appoint an Interim President for the IDFC and hire a small management team that could work on designing operational policies for the new IDFC. As the historical record shows, Senator Inouye and his counterpart in the House, Mo Udall, Chairman of the Interior Committee, held hearings on S. 721, both in Washington, D.C., as well as a number of field hearings in Indian Country. The testimony from these hearings led to some important changes in the bill and it was then passed in both the House and Senate at the end of the 100th Session. (See attached Committee Report on S. 721, 100th Congress which I have shared with your Committee staff).

Once S. 721 was passed it was sent to President Reagan. He vetoed the bill, informing us that he could not support the creation of another GSE (Government Sponsored Enterprise) type of institution. He added that in his view, there were already sufficient federal authorities such as the Small Business Administration and the BIA Loan and Loan Guarantee program established under the 1975 Indian Financing Act. Congress had already adjourned for the year and there was no opportunity for Chairman Inouye and Chairman Udall to attempt an override of the President's veto. When President Reagan's successor, George Herbert Walker Bush, was installed into office, I called Interior Assistant Secretary Eddie Brown to discuss the IDFC bill and Reagan's veto. The Assistant Secretary informed me that he had been told by his White House contacts that the bill would be considered "veto bait" and advised me that it would not be productive to have it introduced again and seek its passage in the 101st Congress.

Authorities and Functions of the IDFC

The IDFC bill that you now have before you today, S. 439, is essentially identical to S. 721 as it was passed in the 100th Congress. The primary tools that it brings to the table include:

1.) Authority to make investments of seed capital into the business ventures of its tribal shareholders and,

2.) To provide federally-authorized guarantees for bank loan commitments and tribal tax-exempt development bond issues.

The only limitation is that the business activities supported by the IDFC must be related to the development of economic infrastructure on behalf of the tribal shareholders' communities . That is, the business should not be an activity that simply exists within an established commercial market and is not otherwise connected to the economy of the tribal shareholder.

3.) The IDFC is also authorized to create a *Technical Support and Business Research Office* within the institution with expertise in designing and issuing development bonds.

It should also be able to assist in providing the research for and designing business opportunities that appropriately take advantage of the unique position of U.S. Tribal Nations within the marketplace, *such as alternative energy developments, broad band internet information services or natural foods produced in Indian Country and identified with tribal food production traditions such as the wild rice in the Great Lakes, the Wapato root potato from the northern plains, chili spices from the southwest and wild salmon from the pacific northwest.*

Mr. Chairman, as I am sure you and your colleagues are aware, there have been some significant changes in Indian Country since the IDFC bill was first introduced in 1987. Primarily, these changes result from the introduction of casino style gaming that was made possible through the 1988 passage of the 1988 *Indian Gaming Regulatory Act.* According to the most recent reports from the National Indian Gaming Commission (NIGC), in 2009, tribes collectively generated over $26 billion in revenue.

The most successful tribal gaming operations are typically located near major cities and metropolitan areas in close proximity to Indian Country. For the tribes that are located in such areas in California, Connecticut, Florida and New York, the advantage of their location has proven to be critical to their success. However, as you are no doubt aware, almost all of these tribes have communities that are very small in population and are located on a relatively small land base as compared to tribes in the Great Plains and Rocky Mountain areas that you and your colleagues on this committee represent–namely North Dakota, South Dakota, Montana, Wyoming, and Minnesota. In New Mexico, Washington State and Arizona, the conditions are similar in that most tribes do not have "large" casino operations but there are a minority that do have successful operations. In Utah and Hawaii, state law criminally prohibits all forms of gaming.

Thus, the record shows that casino style tribal gaming has not reached nor benefitted tribes in these states. Some tribes, such as the Shakopee Mdewakanton Sioux near Minneapolis, have been extraordinarily generous with their less fortunate neighbors, awarding over $40 million in contributions to worthy causes in 2008. In Washington State where I live and have served for seven years as a member of the Washington State Gambling Commission, the tribes have agreed in State Gaming compacts to set aside 1 percent of their net revenues for charitable contributions. In 2009, these charitable contributions reportedly amounted to approximately $3 million. Most Washington tribes give an informal preference to contribution requests coming from neighboring tribes for scholarship services delivered to Native Americans attending higher education programs. However, *in no state that I am aware of have the successful gaming tribes found a way to share their excess capital, that is "capital in excess of their own needs, and use this to invest in business ventures with other tribes."* In a few instances, the Mohegan and Pequot tribes have helped other tribes in the development of their gaming operations in other areas of Indian Country that have sought out such Tribal Capital. Although I have not exhaustively researched the record of these practices, I can assure you that the successful gaming tribes invest their excess capital primarily to diversify their own economies and invest in business opportunities within their own region. *I would suggest that this record shows that the majority of the 560 Indian Tribal Nations, particularly those with large land bases and large populations located far from commercial and trade centers, remain in conditions of extreme poverty that more than justify action by the Congress to enact legislation to establish a federally-chartered and funded IDFC as proposed by Senator Inouye in S. 439.*

In my view, one of the primary goals of the IDFC to be created by S.439 would be *to "intermediate" business investment opportunities between the successful gaming tribes and the non-gaming tribes.* The IDFC would bring to the table the tools needed to make this type of inter-tribal economic development possible and much more likely to happen. The Bank's Technical Assistance and Business Research Office could conduct research on the potential for successful alternative energy resource development business development by tribes in the Great Plains and Rocky Mountain areas. Internet broadband development opportunities abound in the southwest and southern plains where many non-gaming tribes are located.

The IDFC could create *investment portfolios* around such investment opportunities and take them directly to the tribal council chambers of those successful gaming tribes who have expressed an interest. They could include suggestions about the amount of seed capital that the IDFC should be prepared to inject into such *inter-tribal economic opportunities.* The IDFC would advise tribal governments as well as on the potential help the Bank could provide in securing an IDFC-authored federal guarantee for either a bank loan or investment bank-sponsored Tribal tax-exempt bond issue that would be part of the financing package. Likewise, where there is a potential to develop export or import trading opportunities between IDFC shareholders and indigenous nations who have a *comparable legal and political framework* such as the First Nations in Canada or Maori Tribal Nations in New Zealand, the IDFC could bring their intermediation skills to the table to assist such initiatives.

Mr. Chairman, I have been advised that the IDFC proposal gives rise to a number of questions that are generated by our current national financial crisis. For example:

Will the IDFC be able to engage in the kinds of practices that are so controversial today and which have given rise to calls for financial reform?

The IDFC as provided for in Senator Inouye's bill, S.439, will simply not be able to engage in the kind of "risky" investments and banking practices that are cause of such public concern today. As we know, the primary reason that the world of banking is so entangled in these difficulties is due to their excessive and unwise reliance of the use of "subprime" mortgage-backed securities bundled together into large investment vehicles. *The IDFC will simply not be engaged in mortgage lending.* As you well know, on the great majority of Indian lands that are held by the Federal Government in trust status, private mortgages are rarely issued because the underlying real estate for a home site cannot be used as collateral. Under federal law, Indian trust property cannot be pledged as collateral for a private bank or even a development bank loan. In recent years, it has become possible to create an *assignment of interest* as a leasehold interest on trust lands. In these cases, the value that is being pledged to the lender is the property that rests on the land, the buildings and fixtures that constitute the residence. These leasehold assignments can be pledged by a tribal member who has the right to do so under their tribe's law. However, such an interest cannot be sold to another individual, even another tribal member. They may be transferred, if the tribal government approves such a transfer and the transfer is also approved by the BIA, but this cannot be used to create a "market" of such leasehold assignments. There is simply no way that the financial transactions that the IDFC will engage in can be used to create a market for negotiable securities that can be put into a larger market and become part of the financial scandals that have we have come to experience.

How will the IDFC be "supervised" or "regulated"?

Banks that have a federal license operate under the supervision and regulation of the Office of the Comptroller of the Currency (OCC). The Comptroller conducts regular inspections of all banks' books and supervises them if they get into financial trouble. That is, the OCC may require them to write off bad loans and to change their lending practices or to be seized by federal Marshalls. If the bank experiences a Failure or Bankruptcy, the Federal Deposit Insurance Corporation (FDIC) has the authority to take over a bank's assets and sell them to public buyers. The FDIC may arrange for a financially-strong bank to purchase the failed bank's assets.

The IDFC would be "supervised", in this sense of the word, by an agency of the Department of Interior or an office within the Treasury Department. Perhaps there is such a "Supervisory" office for the Community Development Finance Institutions housed within the Treasury Department, the CDFI group. I would like to suggest that Committee staff make inquiries into such arrangements prior to a "Mark-up" session for the bill, S. 439.

Mr. Chairman, before I conclude my testimony, I would like to address the question of language in the bill that provides that the stock to be issued to Tribal Shareholders be set at $50 per share. This was language drafted in 1987 when the great majority of tribes had virtually no disposable income or cash reserves. In this post-IGRA era, I would suggest that a price per share of $1,000 or even $10,000 would

be more appropriate. In addition, such a price would mean that if all 500 tribes purchased IDFC stock, it would create a pool of capital of either $5 million or even $50 million to augment the $100 million authorized for Federal Government Capital Stock.

In addition, there should be a ceiling set on the number of shares one individual tribal nation should be able to purchase, Presumably, the Bank's Governing Board would write the initial operating policies to provide one vote per share for tribal shareholders if they are casting votes for the Governing Board or adopting or modifying important operating policies or considering investment decisions. If the U.S. Treasury Secretary has a deciding vote on key decisions for loan commitments or investment of IDFC capital into Tribal Shareholder projects, the Governing Board's decisions could still be overruled by a majority vote of tribal shareholders at an official shareholder meeting. A basic principle of democracy should be considered which balances the views and wishes of small shareholders and voting power with tribes who hold larger blocks of the voting stock.

Mr. Chairman, it has been an honor to appear before you today and offer these comments on the IDFC authorizing legislation. I would like to close by pointing out to you that the IDFC is a "visionary" proposal that originally came from the group of Visionary Tribal Leaders who served 40 years ago on the Economic Development Task Force of the American Indian Policy Review Commission. I believe that they were looking into the future and that they could envision a time many years later when Indian Country would be in a position to make use of the resources and powers assigned to the IDFC in a powerful and dynamic way to meld Indian County together into an integrated "Indian Country Economy" and, perhaps into an "Indigenous Nations Economy". The Development Bank has the tools and can mobilize the capital and technical resources to help tribal leaders across Indian Country create a healthy and economically-sustainable Indian Country Economy. They can overcome the preceding generations of colonialism and economic oppression imposed on U.S. Tribal Nations under the Allotment Acts and the termination-era policies of BIA domination and economic paternalism. It is an opportunity to bring about an economic transformation of Indian Country. This would be a fitting role for the IDFC to define as its mission. I thank you for your attention, and I am happy to respond to any questions you may have.

The CHAIRMAN. Professor Parker, thank you very much.

I should have mentioned that Professor Parker was previously a Staff Director for this Committee when Senator Inouye, back in the 1980s, was Chairman of this Committee. So the Committee appreciates your previous work. And I know this has had a long germination period, but nonetheless good ideas are good no matter when they are described or discussed, and I am pleased that we are discussing it now because this issue of economic development for tribes is very important, and the fact is, it doesn't happen without access to capital.

Mr. Ron Allen has been with us many, many times. He is the Treasurer of the National Congress of American Indians and the Tribal Chair of the Jamestown S'Klallam Tribe in Washington State.

Mr. Allen, thank you for being with us. You may proceed.

STATEMENT OF HON. W. RON ALLEN, TREASURER, NATIONAL CONGRESS OF AMERICAN INDIANS; TRIBAL CHAIR, JAMESTOWN S'KLALLAM TRIBE

Mr. ALLEN. Thank you, Mr. Chairman and Senator Franken.

I appreciate the opportunity to come before you to talk about this particular bill which I think is very, very important. I am very honored to speak on behalf of the National Congress of American Indians, as well as my tribe, on this subject matter.

As you and this Committee is well aware, self-determination and self-governance, self-reliance are fundamental pillars for the tribes. And when it comes to economic development to achieve self-reli-

ance, it requires capital. And everyone knows that. It requires the capacity to be able to build your infrastructure, to build your economy, to be able to create jobs, and to be able to attract investment in your community wherever you are, whether you in the far reaches of Alaska or if you are down in the tip of Florida.

So we have an opportunity. And yes, against a backdrop where you are exploring financial reform and exploring the fundamental tenets or principles that Wall Street should be administering, we are aware of that. We think that this is a good opportunity.

We want to make sure that, you are well aware, as we are talking about this development bank idea, that right now we have literally tens of, if not hundreds of billions of dollars invested right now that are actually maturing. This year alone they estimate $50 billion. In four years, we figure that our loans are going to be probably maturing to the tune of, for refinancing, up to the $400 million range.

So the banking industry is going to be exploring that, but it will cost us more. It is very costly for Indian Country to get access to capital to invest. There are lots and lots of opportunities, but what do we need out there? We need capital to invest in telecommunications or fundamental infrastructure. If we are going to explore the option of eco or tourism industries, how are we going to get there? We have to have investment in order to develop the infrastructure and the capacity to do that.

We want to note to you that the ARRA Act, the Recovery Act, has made a big difference. I would like to show you the report that we at NCAI had produced to give you samples of examples how that kind of stimulus of investment in Indian Country made a difference. And I would ask that you would consider this for the record to give you examples of how capital investment in Indian Country can make a difference, and that we need more of it.

It is a one shot deal that is making a difference. But even in it, even in the ARRA bill, $2 billion of that 4 plus billion dollars that was made available to Indian Country was for tax exempt bonds.

Now, the issue is that all those bonds were identified for tribes. They capped them off at $30 billion for any particular proposal—$30 million, I should say—for any particular proposal by tribes. A long list of tribes submitted requests to be in the mix for those tax exempt bonds, but very few of them have been let. Why? Because the financing industry is not interested. They are not interested in investment in Indian County. They consider us high risk.

So the issue is that there is a need for investment and tribes are ready to go out and secure them, but the industry is not willing and interested in investing because they consider us high risk. The due process, the confidence of doing business in sovereign territory like Indian Country is a big problem for Indian Country.

Does this supplant or does this proposal intervene with regard to what the BIA is doing with the Loan Guaranty Program? No, it complements it. It complements the Indian banks out there. It complements the private sector out there. This proposal is intended to complement that opportunity.

So NCAI would like to encourage the Committee to explore this idea with Indian Country with regard to how you would invest in

this kind of a proposition for development and infusing capital in our communities.

One, we would like to note to you that this bank needs to have access to the Federal Reserve. You need to have access to those resources so we can get that capital at an affordable levels, at affordable rates to be able to be extended out to Indian Country for the purposes of infrastructure.

Two, it needs to, as outlined in it, it needs to enhance the training and the assistance that tribes need in order to access those resources. We also need assistance in developing the legal infrastructure so that when the financial industry or the developers want to do business on reservations, that they have confidence in the due process. So tribes need to strengthen that fundamental legal infrastructure of our governments so the private sector would do business.

Third, structural integrity. The bank needs to have a structure so that it works. It has to make sense on how you provide the oversight. So you have to make sure there is no conflict of interest in terms of how you are going to get money, access money and get investors to invest in it, and that you will be able to get those monies out into Indian Country so that would happen.

The last point I would like to make is that make sure that inside the legislation you have some provisions and conditions that is would enhance our ability, such as guarantees; such as insurance or other innovative issues, including surety bonding which can strengthen tribes' businesses to be able to go out and get jobs and get surety bonding that is sorely underfunded right now. We can't access that. It doesn't allow our businesses to be able to be effective and competitive in the market.

So I will close, Senators, by saying thank you for the opportunity. We look forward to working with you and hopefully we will find a way to make this bill become a reality.

Thank you, sir.

[The prepared statement of Mr. Allen follows:]

PREPARED STATEMENT OF HON. W. RON ALLEN, TREASURER, NATIONAL CONGRESS OF AMERICAN INDIANS; TRIBAL CHAIR, JAMESTOWN S'KLALLAM TRIBE

The National Congress of American Indians supports the proposition of a federally-guaranteed development bank to promote economic and community development in tribal communities. This idea has become especially significant during these difficult economic times where credit is scarce, unemployment is high, and the need to build tribal economies is great.

The Senate Committee on Indian Affairs (Committee) is well aware of the difficult economic and social conditions plaguing Native communities. Without adequate investment in tribal communities, things simply will not change. We know this from the substantial and successful investments recently made by the Federal Government in tribal governments through the American Recovery and Reinvestment Act (Recovery Act). Tribes were able to access government funds for infrastructure and economic projects that were planned but left unfunded or under-funded, sometimes for decades.

The federal investment through the Recovery Act yielded positive returns for tribal communities, including improved citizen services, strengthened institutions and infrastructure, and increased job opportunities. As a result health care facilities, schools, houses and senior care facilities were built to improve the health and well-being of tribal and surrounding community members. Airports, roads, and water treatment facilities were undertaken to improve market access and build the required infrastructure needed for economic and community growth well into the future.

- See attached "Investing in Tribal Governments" for examples of federal return on investments under the Recovery Act.*

These federal investments in tribal governments are important and need to continue; however, there is a role for the Federal Government in ensuring that capital finds its way to tribal communities. The Federal Government should serve a key role, through a tribal development bank, in mitigating early capital risk and perceived investment and political risk associated with financing tribal government projects.

One of the main arguments against the formation of a government-backed development bank has always been that it would step on the toes of the private sector. But, as we are all keenly aware, private capital has not found its way into Indian Country on any substantial scale. This is the case (especially in the current downturn), even in maturing industries like gaming and energy where tribes are currently having a difficult time gaining access to credit or reasonably priced debt. In addition, because tribes, as a portfolio, have a relatively small impact on more sizable investment firms that are needed to underwrite the risk, there are relatively few firms making decisions to enter or support the tribal market. This often leads to higher-priced transactions with higher yields for tribes.

As part of the Recovery Act, tribal governments were given access to $2 billion in tax-exempt debt for economic development purposes. The Department of Treasury, in an effort to ensure the greatest number of tribes would benefit, set an allocation cap of $30 million for each applicant. Both tranches of $1 billion each were over-subscribed making it very clear that the demand for reasonably priced debt is very high. This exercise also made it very clear that even though there was very high demand from tribal governments, there was very little appetite from the investment community to extend credit to tribal governments with less than a handful of tribal governments completing the underwriting process to date. Tribal leaders are now left wondering how if they will be able to use this one-time allocation.

A well-designed development bank could help accelerate private sector investment in tribal economic projects. A well-designed development bank should serve as an incentive for private capital to invest alongside the bank and target areas where private capital has failed or is insignificant enough to drive rate or equity competition for the benefit of the tribe. All this should be done while being mindful of generating enough revenue to make the bank stand on its own with little support from taxpayers.

The Indian Development Finance Corporation Act (IDFCA) [S. 439] introduces the development bank in Indian Country. In moving toward a successful introduction, Indian Country can learn from other government-backed development bank models, since many receive a high profile—like the World Bank or International Monetary Fund. We can also learn from other government programs that have successfully entered into the government-backed capital arena, like the Indian Loan Guarantee Program at the Office of Indian Energy and Economic Development within the Department of the Interior.

In looking at other models and what has already proven successful, NCAI would like the Committee to consider certain aspects, some included in the legislation that is the subject of this hearing, including:

- Bank Self-Sufficiency and Borrowing Costs–The development bank should be able to access funds, for the purposes of extending and refinancing debt, from the Federal Government's Federal Reserve. Borrowing funds utilizing the discount, overnight, or inter-bank rates is essential to maximize taxpayer returns, and to generate revenue to offset losses and administrative expenses. Indian tribes are limited to issuing only debt for certain enterprises, making the low borrowing rates essential in providing cost-effective debt. This also reduces the amount of appropriated funds that need to be set aside for the purpose of backing loans, since only a fraction needs to be available for possible defaults.
- Training and Technical Assistance—The development bank legislation should provide specific authorization [of appropriations] for initial and on-going training and technical assistance. In other development bank models, it is essential that the right expertise be available to build upon and enhance the skills of the entrepreneur. Training and technical assistance integrated throughout the business start up and development stages improves the business success rate, and protects the development bank risk while building capacity.

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*The information referred to has been retained in Committee files and can be found at *www.indiancountryworks.org/file/Investing%20in%20Tribal%20Governments%20-%20Case%20Studies%20From%20ARRA%20web.pdf*

One of the reasons that a development bank is needed in Indian Country specifically is because the development community providing capital is reluctant to navigate diverse tribal codes. Tribes pay a premium when financial firms and investors assume this presumption of risk. Training and technical assistance should extend to developing effective tribal codes that can facilitate financial transactions while honoring tribal sovereignty in an effort to build investor confidence in the tribal market.

- Structural Integrity—A development bank should be structured in a manner that provides visibility and objectivity, and takes advantage of Indian Country capacity. Taking lessons from other banks may be helpful in developing an effective structure. One of the international banks has representatives from every member nation involved in the decision-making process. While this is inclusive, it has also created an unnecessary bureaucracy and politics. Short terms of service also tend to limit the capacity and effectiveness of the decision-makers. And an development bank in Indian Country should consider the lessons of the World Bank as a structure to avoid where the developed countries appear to be the decision-makers and by default the ones to blame when loan or equity financing is not advanced, or worse, when a business fails or a loan defaults.

  An Indian Country development bank may want to avoid equity buy-ins to the bank or a structure that provides the appearance that wealthier tribes that can afford to invest may be the decision-makers for those who may not be able to participate in the same manner. Keeping participation open and diverse is essential for objectivity and visibility. This arrangement also encourages the development of tribal governments as separate investors into investment bank projects, while avoiding any appearance of a conflict of interest.

- Tribal Government Alternative Needs–The development bank should also consider using guarantees, insurance, and other innovative structures to drive infrastructure investment and business development. Financing a large infrastructure project up front saves on construction and materials cost, adding value for the tax payer. Utilizing the bank to finance projects and use appropriations or grant revenues (similar to states) to repay the debt would help advance economic and community development. In addition to financing large infrastructure projects, the bank can be used to provide larger surety guarantees or provide short-term bridge financing for government contracts or pre-market financing.

Indian Country needs a development bank now more than ever. Indian Country is well positioned to move into the new economy through the development of its vast and diverse natural resources, expansion of its telecommunication infrastructure, growth of maturing industries, and by adequately valuing our cultures for development of a local tourism industry.

NCAI looks forward to working with the Committee as it continues to develop the development bank concept. Producing a model institution that will serve the immediate capital needs of tribal governments and entrepreneurs is of utmost importance to the future growth of tribal economies, while mitigating the investment risk of private capital partners.

The CHAIRMAN. Chairman Allen, thank you very much, as always, for your testimony and your work.

I am going to call on Alonzo Coby, the Chairman of the Fort Hall Business Council of the Shoshone-Bannock Tribes in Fort Hall, Idaho, but my colleague has joined us, Senator Udall. And I know, Senator Udall, you wanted to make an appropriate introduction.

Are you able to stay or do you want to make that introduction now? Okay, why don't we just continue down the line.

Senator TOM UDALL. Oh, okay. You just mixed up Udalls. No problem.

The CHAIRMAN. I did mix up Udalls.

[Laughter.]

Senator TOM UDALL. Well, Mark Udall is coming, I believe, to make the introduction.

The CHAIRMAN. And I do that constantly.

Senator TOM UDALL. No, no, no. This is the first time he has ever done it. The first time he has ever done it. He is brilliant.

[Laughter.]

The CHAIRMAN. Let the record show I do it constantly.

[Laughter.]

The CHAIRMAN. But I will never again mix up the Udall cousins here in the United States Senate.

Senator TOM UDALL. It is very easy to do.

The CHAIRMAN. I am just going to call them Senator from now on, but I know which Udall I am talking about and I appreciate his work on this Committee.

Mr. Alonzo Coby, Chairman of the Fort Hall Business Council, you are here to testify on I believe the Blackfoot River Land Settlement Act. Is that correct? Why don't you proceed.

STATEMENT OF HON. ALONZO COBY, CHAIRMAN, FORT HALL BUSINESS COUNCIL, SHOSHONE–BANNOCK TRIBES

Mr. COBY. Good afternoon, Chairman Dorgan and Senator Udall.

I am Alonzo Coby, the Chairman of the Shoshone-Bannock Tribes located in Fort Hall, Idaho. I am honored to provide our views on S. 2802, an Act to settle the land ownership issues on the Blackfoot River in Southeastern Idaho. We thank Senator Crapo and Senator Risch for introducing this bill.

We also thank Mr. Marion Walker, a landowner affected by this legislation, for his efforts and for coming here to testify today.

For over five years, these issues have been in litigation before a water master in Idaho. We have been working with tribal landowners, non-Indian landowners, the BIA, the Bingham County Commissioners and the State of Idaho to resolve these longstanding land matters that have clouded titles to these lands.

The parties believe that the best way to settle these land issues is through legislation. We hope that Congress can enact this legislation as soon as possible, given that the court has a December 6, 2010 trial date on these matters.

What this legislation does: one, it extinguishes title to non-Indian-owned lands on the south side of the river. This amounts to 31.01 acres which the tribes would gain under this legislation.

Two, extinguish title to Indian and tribally owned lands on the north side of the river. This amounts to 37.04 acres which would be transferred to the non-Indians.

Three, provide for fair compensation to those who lose their lands under the legislation and provide fair compensation to those who experienced trespass damages for over 45 years.

Four, allow the affected landowners to gain farms and use their lands.

Once the legislation is enacted, the tribes will dismiss their objections relating to the use of water they filed in the Snake River Basin adjudication. This will enable the landowners to secure their water right decrees in the Blackfoot River for irrigation and other purposes.

These problems were created over 45 years ago when the Federal Government, acting through the Army Corps of Engineers, rechannelized the Blackfoot River. Given that the Federal Govern-

ment created these problems, you should assist us in resolving them by enacting this legislation.

The best way to understand the problems created by the rechannelization is by showing you some maps. Visual aid one, which is to your left, this is an aerial map of the Fort Hall reservation, which is in the corner. There is a diagram of the State of Idaho showing where the former reservation was located.

The Blackfoot River is the Fort Hall Reservation's most northern boundary. The original reservation boundary and the Blackfoot River are shown in blue on this map. The stretch of the river is about 13.5 miles. The rechannelized Blackfoot River is shown in red. You can see various loops created by the channelization.

BLM conducted a survey of the river and prepared plats showing the present course of the Blackfoot River. The Cadastral Survey lines are shown in yellow, the visual aid which is to your right. This map shows a close-up of one of the non-Indian land loops created by the rechannelization. This loop is Mr. Walker's land.

After rechannelization, his land ended up on the south side of the river within the reservation. Again, the blue line is the original reservation boundary and the new rechannelized river is shown in red. This loop approximately is three acres.

There are approximately 44 loops created by the channelization owned by Indians and non-Indians. Since the 1960s, the parcels of land had remained idle because the landowners cannot gain access to the parts of the land without trespassing or seeking right-of-way across other owners' lands. We hope Congress can assist us in resolving these longstanding land disputes created by the Federal Government's actions in the 1960s.

Please enact this legislation before this December, which is when the court has scheduled for this trial. Our hope is to resolve this through legislation, not litigation.

Thank you.

[The prepared statement of Mr. Coby follows:]

PREPARED STATEMENT OF HON. ALONZO COBY, CHAIRMAN, FORT HALL BUSINESS COUNCIL, SHOSHONE-BANNOCK TRIBES

I. Introduction

Good afternoon Chairman Dorgan, Vice-Chairman Barrasso, Senator Crapo, and other Members of the Committee. My name is Alonzo Coby, and I am the Chairman of the Fort Hall Business Council, which is the governing body of the Shoshone-Bannock Tribes located on the Fort Hall Reservation in southeast Idaho. I am honored to be here today to provide our views on S. 2802, an Act to settle land ownership issues on the Blackfoot River in southeastern Idaho.

We particularly appreciate that Senator Crapo, our Senator from Idaho, introduced this bill with Senator Risch. On the House side, Representative Mike Simpson along with Representative Walt Minnick introduced H.R. 4613, the companion bill to S. 2802. Our delegation understands the importance of resolving these historic land title issues in southeast Idaho that have created challenges for the Tribes and non-Indian landowners. We greatly appreciate Mr. Marion Walker, a landowner affected by the legislation, being able to come and offer his support. This legislation is supported by all the affected non-Indian landowners.

For over five years, these issues have been in litigation before a water master in Idaho. We have been working with the Tribal landowners, non-Indian landowners, the Bureau of Indian Affairs, the Bingham County Commissioners, and the state of Idaho to amicably address and resolve these long-standing land matters. We know the importance of working out these issues that have clouded title to these lands. The parties have concluded that the best avenue to settle these land disputes is through this legislation. The parties hope that the Congress can enact this legisla-

tion as soon as possible given that the Court has set a December 6, 2010 trial date on these matters.

This legislation would once and for all clear up land title to the affected lands, enable the Tribes and non-Indian owners to farm or use the land, provide fair compensation to the parties, and enable the landowners' water claims to be decreed. The parties have lost valuable income due to the inability to farm these lands. These problems were created over 45 years ago when the federal government, acting through the Army Corps of Engineers, rechannelized the Blackfoot River. Given that the federal government created these problems, it should assist us in resolving them by enacting this legislation.

II. Background of the Shoshone-Bannock Tribes and the Fort Hall Reservation

The Shoshone-Bannock Tribes are a federally recognized Indian tribe organized under the Indian Reorganization Act of 1934. The Shoshone and Bannock people are comprised of several related bands whose aboriginal territories include land in what are now the states of Idaho, Wyoming, Utah, Nevada, Colorado, Oregon, and parts of Montana and California.

In 1867, President Andrew Johnson by Executive Order designated the Fort Hall Reservation ("Reservation") for various Shoshone and Bannock bands that occupied the area since time immemorial. On July 3, 1868, the Shoshone and Bannock Tribes ("Tribes") concluded the Second Treaty of Fort Bridger, which was ratified by the United States Senate on February 24, 1869. Article 4 of the Fort Bridger treaty reserved the Reservation as a "permanent home" to the signatory tribes. Although the Fort Bridger Treaty called for the Reservation to be approximately 1.8 million acres, various "surveying errors" in 1873 reduced its actual size to approximately 1.2 million acres.

One of the United States' purposes in setting aside the Fort Hall Indian Reservation was to protect the Tribes' rights and to preserve for them a home where their tribal relations might be enjoyed under shelter of authority of the United States. Subsequent cession agreements with the United States reduced the Fort Hall Indian Reservation to the present day size of 544,000 acres. Of the 544,000 acres, 97% of the land is Tribal land or held by the United States for the benefit of the Tribes or its individual members. The Tribes' territory is the largest Reservation in Idaho and forms a large cohesive geographic area that supports a population of over 6,000 people and provides an irreplaceable homeland for economic activity and cultural practices based on strong religious traditions premised on the sacredness of land. Our current Tribal membership is approximately 5,300 members.

The Fort Hall Reservation is blessed with an extensive biodiversity including rangelands, croplands, forests, streams, three major rivers (the Snake, Blackfoot, and Portneuf), reservoirs, springs, and wetland areas, an abundance of medicinal and edible plants, wildlife (elk, deer, moose, bison, big horn sheep, etc.), various species of fish, birds, and other animal life. The Reservation lands are mountainous and semi-desert, and overlay the Snake River aquifer, a large groundwater resource. The culture and continued existence of the Shoshone and Bannock peoples depend on these resources.

The Blackfoot River is the Fort Hall Reservation's most northern boundary, established by the Executive Order of 1867. The Shoshone and Bannocks have an established long-standing and continuous dependence on riparian resources of the Snake and Blackfoot Rivers. While fish and fishing technologies constitute some of the strongest evidence of the dependence of Shoshone-Bannock people on riparian resources, the importance of these resources extend beyond fishing. Streams were a reliable water source for native people. The Rivers were rich in game, including mammals and water fowl. The best winter camps were along stream courses where ample vegetation provided firewood, forage and shelter. No place illustrates the varied resources and subsistence strategies of the Shoshone-Bannock people than the Fort Hall Bottoms, located at the Snake and Blackfoot Rivers. For centuries, Shoshone-Bannock have fished, hunted, processed game, built tools and lived.

III. The United States' Rechannelization of Blackfoot River

In the 1950s and early 1960s, the Blackfoot River annually flooded and caused damage to local homes and properties. The United States Army Corps of Engineers, in 1964, undertook a local flood protection project on the Blackfoot River authorized under section 204 of the Flood Control Act of 1950. The project consisted of building levees, replacing irrigation diversion structures, replacing bridges, and channel realignment. The channel realignment portion of the project altered the course of the Blackfoot River ("River") and caused the land issues between the Tribes and non-

Indians for over 45 years. The federal government moved segments of the River's "bed and banks" entirely within the boundaries of the Fort Hall Reservation.

Following the channelization, individually Indian owned and Tribally owned lands (approximately 37.04 acres) ended upon on the north side of the River, and non-Indian owned lands (approximately 31.01 acres) ended up on the south side of the River within the boundaries of the Fort Hall Reservation. Since the 1960's the parcels of land have remained idle because the Tribal and non-Indian landowners could not gain access to the parcels of land without trespassing or seeking rights-of-way across other owner's land. As mentioned previously, the inability to farm these lands has deprived landowners of vital income.

The Department of Interior, Bureau of Land Management, Cadastral Survey Office conducted surveys of the River in 1999 through 2003, and has prepared plats representing the surveys that show the present course of the Blackfoot River and identify the Fort Hall Reservation borders that existed at the time the Reservation was established. See 67 Fed. Reg. 46,686 (July 16, 2002); 67 Fed. Reg. 64,656 (October 21, 2002); 68 Fed. Reg. 17,072 (April 8, 2003); 69 Fed. Reg. 2,157 (January 14, 2004); 70 Fed. Reg. 3,382 (January 24, 2005). Since the realignment of the River is considered an "avulsive act", a change resulting from the man-made channelization, survey law deems there is no change to the Reservation boundary. The original Blackfoot River bed remains the northern boundary of the Reservation. Additionally, this legislation does not change the original boundary of the Reservation as reserved by the Executive Order of 1867 and confirmed by the Fort Bridger Treaty of 1868.

IV. Litigation

In the late 1980's the Snake River Basin Adjudication began in Idaho to decree water rights on rivers and streams, including the Blackfoot River. Several non-Indian landowners affected by the rechannelization claimed their place of use of water was on the Fort Hall Reservation. In 2006, the Shoshone-Bannock Tribes filed objections to these claimed water rights. After extensive meetings and multiple status conferences among the court, Tribes and non-Indian landowners, it was agreed the best way to resolve these land ownership issues is through federal legislation as the state water court does not have the ability to resolve the land issues. We have filed status reports to the court advising that federal legislation has been introduced.

The Snake River Basin Adjudication court, however, has not stayed the trials in the water boundary cases to permit the parties to move forward with federal legislation. A trial scheduled in March 2010 on three boundary cases was postponed based on the Tribes reaching agreement with the parties. The court has scheduled trial on December 6, 2010.

V. The Legislation

This legislation serves two primary purposes. First, it would resolve the land ownership issues on both sides of the realigned Blackfoot River by extinguishing title to non-Indian owned lands on the south side with the Tribes gaining ownership, and the title to Indian owned lands on the north side being extinguished with the non-Indians gaining ownership. Second, it would provide fair compensation to the Indian and non-Indian landowners for years of trespass for the value of their lands, and provide for final settlement of all claims arising from this land controversy.

Under the legislation the Tribes and individual Tribal members would receive 31.01 acres on the south side of the River, and the non-Indians would receive 37.04 acres on the north side of the River in the legislation. This legislation addresses about 10 miles along the Blackfoot River. There are 44 loops created by the rechannelization in question, and land title would be resolved.

The Department of Interior Office of Special Trustee conducted a market study of the value of the land and calculated the amount of trespass damages that would fairly compensate the non-Indians, Tribal members and Tribes for their lands.

There are numerous benefits the landowners would receive from the proposed legislation. First, the ownership and title to non-Indian and Indian owned lands located on the north and south sides of the River would once and for all be determined. The legislation recognizes the numerous parcels held by non-Indians located on the Reservation. Second, the non-Indian landowners who currently own lands on the south side of the River on the Reservation would be monetarily compensated for their lands that they give up in the legislation. They would be compensated for the value of their lands and also receive trespass damages. Title to these lands would be transferred to the United States to be held in trust for the Tribes. Third, the legislation would extinguish title of the United States to lands held in trust for the Tribes on the north side of the River, and these lands will be transferred to non-Indian owners.

Fourth, the non-Indians would not face any future challenges in the form of trespass actions by the United States and Tribes for their use of lands on the north side of the River. Finally, if the legislation is enacted, the Tribes would dismiss their objections relating to place of use of water they filed in the Snake River Basin Adjudication, which will enable the landowners to secure their water right decrees in the Blackfoot River for irrigation and other purposes.

In conclusion, the Shoshone-Bannock Tribes, Tribal member landowners, and non-Indian landowners share a common interest of reaching a resolution of these historic Blackfoot River land issues without having to go to court. We have worked diligently on this legislation to meet the needs of all. We ask for quick enactment of this legislation in light of the impending trial date. Thank you for the opportunity to participate in this hearing on this important subject.

The CHAIRMAN. Chairman Coby, thank you very much for being here and for your testimony. My understanding is you told me that you are leaving the Tribal Council after 10 years service?

Mr. COBY. Yes, I am retiring.

The CHAIRMAN. Retiring at a very tender age, I would say.

[Laughter.]

The CHAIRMAN. Next, we will hear from Mr. Marion Walker, who is a spokesperson for the North Bank Property Owners in Blackfoot, Idaho.

Mr. Walker, welcome.

STATEMENT OF MARION P. WALKER, SPOKESPERSON, NORTH BANK PROPERTY OWNERS

Mr. WALKER. Thank you, Chairman Dorgan.

I appreciate this opportunity to represent those residents residing on the north side of the Blackfoot River channel. Since you, as I understand, already have a written report from me, I will not go through the process of reading that, but I will just address my comments to the issue affecting, as an example, my land which represents all non-Indians affected on the north side.

As you look at the diagram before you, the parcel that is in the hatched red, represents my farm. At the top corner of that property, you will find the loop that has been represented on both maps. This is one parcel which I have lost which is just over three acres, and another parcel a little further downstream, just over a half acre which I lost.

Because of that, we have not been able to farm that land that has been cut off from us. We can't get equipment across the river to that land without building separate bridges to each parcel, which is really not cost-effective and may not even be acceptable to the Water Resource Department.

Therefore, because these and other loops have been lost from members on the north bank, there has been a loss of income on all of these properties. Mine represents just a small portion of many of them.

As we looked at this and just kind of rummage this through our minds today, over the past 45 years if this land were put into effective hay production, which is one of the crops that I produce, it would equate to anywhere between $50,000 and $90,000 over this period of time.

There are several different crops, and some crops are more productive and more economical than others, but people up and down the river use their lands for the production of alfalfa, grain, potatoes, and some of this is in pasture land.

We would suggest that also the loops on the north side of the river that are on my property down toward the bottom end of that little sliver, that represents tribal land, which two loops are on my side of the river, which I have been farming, but this is a loss of production for the tribal members of the Fort Hall Reservation.

And so in both respects, as we look at this from all aspects, all parties have lost and it is a lose-lose situation for all involved. We are proposing that this legislation be passed so that it can become a win-win situation by the transfer of lands and the people on the north side can continue to use the lands which then would become entitled to them or deeded and the portions on the south side, that the reservation would just go ahead and use for their production and benefit.

There are also other issues that are involved. That is, if this Act does not go through, then there are several places further on down the line which are not represented on this map where farmers have pivot lines. These pivot circles, and at the top of the map you will see one example, there is a center point in which a long arm goes out and reaches to the edge of the circle. Water is distributed and it irrigates the whole portion.

If there were loops of Indian land on those portions which the non-tribal member would use and were not supposed to use, they would have to draw their pivot line in somewhat and result in a loss of more acreage, which is not very productive.

As a result of this, we are asking that the bill be moved forward. We feel that it is the best way in which to resolve the differences on both sides in which everyone can share equally and have productive and successful use and management of these lands.

Thank you for your time.

[The prepared statement of Mr. Walker follows:]

PREPARED STATEMENT OF MARION P. WALKER, SPOKESPERSON, NORTH BANK PROPERTY OWNERS

As appointed spokesperson for the affected residents residing on the north bank of the re-channelized portion of the Blackfoot River in and near the city of Blackfoot, Idaho, I present this written statement in support for the ongoing legislation entitled "Blackfoot River Land Settlement Act of 2009."

Due to the perpetual flooding problem which existed along this portion of the Blackfoot River, the Flood Control District No. 7 was created and with the help of the U.S. Army Corps of Engineers, the Blackfoot River was re-channeled, deepened, widened and levies were placed to prevent future flooding. This work was completed in 1964. It was a very successful project which has benefited the entire community on both sides of the river. Due the natural meandering of the river it was necessary to straighten the channel to successfully complete the project. This caused twenty-five loops of Fort Hall Reservation land to be cut off from access and effective productivity for members of the Shoshone-Bannock Tribes. Nineteen loops were also severed from the non-Indian land owners creating the same problem for them. At the time of this project, land owners on both sides of the newly formed channel recognized the problems created by these severed loops. To resolve this issue it was generally agreed upon at the time by those land owners involved to simply have the land owners with properties contiguous to the respective loops use, manage and farm these isolated parcels of land. No one seemed to worry much about this arrangement for the next forty plus years, until 2003 when the Bureau of Land Management conducted a survey at the request of the Bureau of Indian Affairs. According to my understanding, this was all part of the results of the Snake River Basin Adjudication project in establishing water rights. As a result, the Shoshone-Bannock Tribes, feeling that this verbal agreement was no longer satisfactory, brought lawsuits against the non-Indian land owners who were using the Reservation land which fell on the north side of the newly formed channel. This conflict of interest

brought both parties to the negotiation table. It was proposed by the north bank residents that a simple land exchange of Tribal land for non-Tribal lands, with just compensation for any discrepancy, be implemented.

It was brought to our attention that, according to United States treaty with the Shoshone-Bannock Tribes, reservation land cannot be sold or traded without a Congressional Act. It was decided that we would pursue such action. Both parties have met together since December 2006 working out the language for this proposed piece of legislation. The "Blackfoot River Land Settlement Act of 2009" is a result of these negotiations. Both parties are in agreement with this proposed legislation As to why this land use dispute was never appropriately resolved at the time of the completion of the project is now a moot issue. The fact remains that in order to avoid further discord and frustration between Tribal members and the non-Indians, this Congressional Act is imperative since, for all practical purposes, we believe this to be the best way for both parties to use and manage these "cut-off loops". We, as north bank property owners, are urgently requesting your support for the passage of this legislation.

The CHAIRMAN. Mr. Walker, thank you very much. I appreciate hearing your description of this proposed settlement.

We have been joined by Senator Mark Udall from the State of Colorado. He joins his cousin, Senator Tom Udall from the State of New Mexico. Senator Mark Udall is here because he wishes, I think, to say some good things about witnesses from the State of Colorado to talk about the next piece of legislation that we are considering.

So Senator Udall, you may proceed.

STATEMENT OF HON. MARK UDALL,
U.S. SENATOR FROM COLORADO

Senator MARK UDALL. Thank you, Mr. Chairman.

Senator TOM UDALL. Chairman Dorgan, I am going to loan it, since this is the generic Udall family, I am going to loan that to him while he is here.

[Laughter.]

The CHAIRMAN. But don't give up your first name.

[Laughter.]

Senator MARK UDALL. It has been said in the West that Udalls are a dime a dozen, and that is the best thing they can say about us out there.

But thank you, Mr. Chairman, for giving me an opportunity to briefly speak to the important legislation you are considering today and to make a couple of introductions.

We have an opportunity to hear today about the Pine River Indian Irrigation Project Act. This irrigation system was built in the late 19th century with the intention of encouraging farming on the Southern Ute Reservation in southwest Colorado. Today, the system is not fulfilling its original intent as a result of deferred maintenance that has put immense stress on old and severely deteriorated infrastructure.

Mr. Chairman, for far too long water users have gone without the water necessary to sustain their crops, and for too long individuals who depend on the system for water have foregone opportunities to bring idle lands back into agricultural production and continue as good stewards of the land.

The need to rehabilitate this irrigation system is long overdue and the need for the Bureau of Indian Affairs to act, equipped with the proper resources, I believe is now.

With that, although I believe that most of you have already met Chairman Matthew Box at previous Committee hearings, it is my great honor to be able to reintroduce to you an important figure in Colorado Indian Country. Chairman Box was first elected to the Southern Ute Tribal Council in February, 2005 and has served in his current capacity as Chairman since November of 2008.

Prior to his position on the Tribal Council, Mr. Box was the owner and operator of an Indian-owned construction company specializing in earthwork. I am pleased that he is joining us here in Washington to share his testimony and I welcome him, as I always do. He always brings a smile to my face.

I would also like to welcome and introduce Lena Atencio, who serves as the Southern Ute Tribe's Natural Resources Director. Lena has an intimate knowledge of the technical aspects of the Pine River Indian Irrigation Project.

I am positive that both Chairman Box's and Ms. Atencio's testimony today will not only highlight the urgent need in southwest Colorado, but also raise questions about the management, operations and funding of all Indian irrigation projects. This is an issue that I hope this Committee reviews further.

Again, thank you, Mr. Chairman. Thanks to Vice Chairman Barrasso as well, and to my cousin for always having my back. I know this will be a productive hearing.

Thank you.

The CHAIRMAN. Senator Udall, thank you very much.

Chairman Box is not a stranger to this Committee. It is nice to see you back again, and you may proceed.

STATEMENT OF HON. MATTHEW J. BOX, CHAIRMAN, SOUTHERN UTE INDIAN TRIBE

Mr. BOX. Thank you, Chairman Dorgan.

Thank you very much, Senators, both of you, and especially for the introduction.

My name is Matthew James Box. I am the Chairman of the Southern Ute Indian Tribe in southwest Colorado. It is a great honor to be here, of course, and I thank you for this opportunity to be here.

On Tuesday, my written testimony was submitted to the Committee, it is very conclusive and in detail, and will be able to provide great information. But my testimony here will be not verbatim of that, but will highlight certain areas of what we call the Pine River Indian Irrigation Project, or PRIIP.

The PRIIP continued to be built throughout the late 1800s and early 1900s. Construction of the Vallecito Dam which was completed in 1941 provided a storage facility for the water from our treaty rights, which could then be delivered via the PRIIP. The PRIIP itself intends to serve nearly 12,000 acres and approximately 170 miles of ditches and laterals. Most of this acreage belongs to the tribe and tribal members, but of nearly 400 individual users, approximately 100 are non-Indian who benefit from this project, the PRIIP.

In addition, the town of Ignacio, the municipality within our boundaries, also is served from the PRIIP.

Of all the users, we have all, especially us, but all users have witnessed the deterioration of the PRIIP because the maintenance on the project has been inadequate for decades, and in more of a crisis-style management mode. As you can see from some of the pictures that were submitted as part of the record, and as my colleague, Ms. Atencio, will note in her statement, which has also been submitted as part of the record, the PRIIP's condition is close to failure. Ditches are overgrown. Delivery structures still in service are cracked, leaking or eroded, and diversion ditches are sometimes inoperable. And the unaddressed erosion threats of these ditches affect access roads and all of these other facilities.

The PRIIP users cannot count on the consistency of the water being delivered, and in some cases may never even see water, and yet they will continue to pay O&M fees, and historically in some cases, like I mentioned, do not see any of the water at all during the irrigation season.

Of course, the climate conditions in southwest Colorado make agriculture difficult enough when the irrigation water is a dependable resource. But for the PRIIP users, the deficiency of this system makes it nearly impossible. The Tribe has been told that the Government's fiscal constraints on the resources are to blame for the maintenance failures on the PRIIP, but we do not believe those excuses justify the current state of the PRIIP. The Tribe is committed to look at this new approach. And we recognize that without it, the project would continue to deteriorate until it was completely unusable.

Therefore, again we are here today to show our passion and commitment to support the Pine River Indian Irrigation Act which would provide a path to bring forward the PRIIP back into an acceptable service.

Since I have explained the problems facing the PRIIP, I would like to take this time now, too, to look at and explain the ways in which the PRIIP Act addresses them.

First, the Act recognizes the numerous benefits that would flow from a rehabilitated and repaired project. Aside from the obvious benefits the PRIIP users would receive from a repaired irrigation system, this would also benefit the environment, other water users, the Tribe, and on a different note, conservation of water that we recognize through gopher holes and prairie dog holes and seepage. Thousands of acre feet are lost. And of course, the local community would benefit.

To help realize these benefits, the Act calls upon the Secretary of the Interior to conduct a comprehensive study of the PRIIP with a goal of developing priorities of rehabilitation and repair projects. Although some preliminary studies have been done, they have not been as comprehensive to the magnitude of the PRIIP's problems. We believe it requires an entirely new comprehensive study.

Also, the development of priorities, in consultation with the Tribe and other Federal agencies, will ensure that when it comes time to put money into the PRIIP that it will be spent well and justified accordingly.

After the Secretary completes his study and reports back to Congress and the Tribe, the Secretary will direct to develop projects based on priorities he has identified. These projects can be carried

on a cost share basis where the Federal share is up to 75 percent, or the Secretary could waive those provisions. The Act authorizes $4 million in appropriations to cover the study and $10 million annually over six years to complete this project.

The Act's approach to fixing the PRIIP is reasonable, efficient and makes addressing the PRIIP's massive rehabilitation needs feasible. Despite the Federal Government's responsibility for the PRIIP and its problems, the Tribe is committed to assisting in order to ensure that the project does not continue to fall into further disrepair. Through our coordination and cooperation to fix the PRIIP, I believe that once again we could fulfill a longstanding goal of development of sustainable agriculture on the reservation.

In conclusion, I do thank you and I do carry the weight of many users of this water project, as I have many promises to keep and many miles to travel before I myself can sleep. So this is very important and has become somewhat of a career project.

Thank you for your time.

[The prepared statement of Mr. Box follows:]

PREPARED STATEMENT OF HON. MATTHEW J. BOX, CHAIRMAN, SOUTHERN UTE INDIAN TRIBE

I. INTRODUCTION

Chairman Dorgan, Vice Chairman Barrasso, and members of the Committee on Indian Affairs, I am Matthew J. Box, the Chairman of the Southern Ute Indian Tribe. I am honored to appear before you today to provide testimony regarding the Pine River Indian Irrigation Project Act ("PRIIP Act"), a piece of legislation that the Southern Ute Indian Tribal Council, our tribal members, and I have been anxiously awaiting for a number of years. The PRIIP Act, S. 1264, was introduced by our two Senators, Mr. Udall and Mr. Bennet, and on behalf of the Southern Ute Indian Tribe, I would like to thank them for continued commitment to representing the Tribe and its interests as well as all Coloradans. I would also like to humbly thank the Committee for your consideration of my remarks today.

II. BACKGROUND

The Southern Ute Indian Reservation ("Reservation") consists of approximately 700,000 acres of land in southwestern Colorado within the Four Corners area. Our tribal members have resided in the area of the Reservation since time immemorial even though our ancestors were nomadic hunter-gatherers who traveled over broad territory on a regular basis. Despite our far-ranging history, we, like so many others in Indian Country,

have been expected to become farmers since the early 1880's, when our present day Reservation was established. It was as a result of the federal government's policy of encouraging Indian agriculture that the Pine River Indian Irrigation Project ("PRIIP") was born.

Some of the irrigation ditches that eventually served as the basis of the project were constructed by the Indian Agency in 1877. In 1895, the Pine River Indian Agency filed claims for water from the Pine River to irrigate over 18,000 acres of land. In the 1920s, in part as a response to the disputes over water rights, the Office of Indian Affairs began investigations into the possibility of storing early season flood waters for irrigation of almost 17,000 acres of Indian land in the Pine River Valley. During the 1920s, growing concerns related to Indian irrigation led to the first comprehensive investigation into Indian irrigation programs. The report from this investigation, called the Preston-Engle Report, was published in 1928. The PRIIP, then known as the Southern Ute Irrigation Project, was one of the projects studied at that time.

From its inception, the PRIIP has not served its users as it was intended. For example, as noted in a 2006 study by the Government Accountability Office on Indian Irrigation Projects ("2006 GAO Report" – copy submitted herewith),* construction of the PRIIP was never actually completed. *See* GAO-06-314, Indian Irrigation Projects, p. 42. Since that time, the "crisis-style" management discovered by the GAO study has led to ongoing operational and management deficiencies that have degraded the project's infrastructure and facilities to the point of nearly complete failure.

Presently, the PRIIP is intended to provide water to approximately 12,000 acres and nearly 400 individual users, including approximately 100 non-Indians and the Town

* The information referred to has been retained in Committee files and can be found at *www.gao.gov/new.items/d06314.pdf*

of Ignacio, and is operated by the Bureau of Indian Affairs ("BIA"). A map showing the PRIIP is attached to this testimony. According to the 2006 GAO Report, the project is carrying a deferred maintenance backlog of needed improvements that amounts to approximately $20 million. Other, less official estimates have put that amount as high as $60 million. The deteriorated condition of the PRIIP means that many of its users are unable to access and use water for agricultural irrigation. The pictures included with this testimony show some examples of the deteriorated condition of the PRIIP. Despite this condition, users have seen rates for operation and maintenance increase over recent years even while the PRIIP continues to fail to deliver water for their use. In fact, according to a 1999 study done by the Bureau of Reclamation, geographic and climactic conditions prevent PRIIP users from generating a return on their investment that would justify PRIIP charges of more than $6.00 per acre; however, current charges exceed $15.00.

The PRIIP Act seeks to remedy the years of neglect that the PRIIP has suffered. Given this long history of that neglect, beginning with the failure to actually complete the project, rehabilitating the PRIIP will certainly not be an easy task; however, we believe the PRIIP Act represents an effective approach to doing so.

III. THE PRIIP ACT

As presented for your consideration, the PRIIP Act generally approaches the rehabilitation of the project in phases: first, the Secretary of the Interior ("Secretary") would be required to assess the condition of the PRIIP, including its infrastructure, and establish priorities for fixing the problems identified by the assessment; then, following such assessment, the rehabilitation activities would be carried out through cost-sharing agreements between the federal government and the Tribe.

A. Findings and Purpose.

As noted in Section 2 (Findings and Purpose), this approach would address the PRIIP's current deficiencies while providing numerous benefits, including: water conservation; extending available water supply; increased agricultural production; economic benefits; safer facilities; the preservation of our culture; and, improvement of water management and the reduction of water conflicts. No longer would tribal members and other water users on the PRIIP wait for the irrigation water to come on in the spring only to find that, because of the condition of the project's facilities, the water did not make it to their land. In addition, the use of the project's water would be much more efficient if, for example, the activities called for in the PRIIP Act were to result in better containment, such as canal linings, and delivery. Ultimately, the purpose of the Act is to finally fulfill the initial purpose of the PRIIP itself, which was to help promote and support agricultural development by the Tribe, its members and the local community.

To achieve these goals, we would anticipate that the Secretary would call upon the Bureau of Reclamation as the agency to handle the tasks outlined by the PRIIP Act. Regardless, however, throughout both phases, the Secretary is encouraged, if not required, to work with us and others to ensure that the ultimate results are collaborative and successful. All too often, we have seen federal agencies and others who, under the best of intentions, fail to accomplish their objectives because they fail to involve and/or communicate with others who could provide assistance. Furthermore, even though the PRIIP will continue to be managed and operated by the BIA, the same agency that has overseen the project's decline, we are committed to doing our part to help all PRIIP

users, including non-Indians, benefit from the project. The goals of the PRIIP Act are far too important for us to avoid assisting even though we have no legal or other responsibility to do so.

The following outlines the sections of the PRIIP Act that describe the phases in additional detail. These sections begin at Section 4, which follows a short section of definitions.

B. Section 4 – Study of Irrigation Infrastructure of Project.

The first phase, which would commence as soon as practicable following enactment of the PRIIP Act, would require the Secretary, in consultation with the Tribe, to study the PRIIP's irrigation infrastructure and, based on the study, develop a list of recommended activities and cost estimates for each that would, within a decade of completion of the study, repair, rehabilitate or reconstruct such infrastructure, where appropriate. This section includes specific factors, such as the recommendations of the Tribe and the benefits of each activity on the overall PRIIP, for the Secretary to consider in establishing the priority of rehabilitation activities. The PRIIP Act would also require that the Secretary consider any threats to the health and safety of tribal members, BIA employees or the general public; the extent of disrepair of the PRIIP and the ability of its users to adequately irrigate; water conservation; and the extent to which the activities would provide the benefits outlined above.

Following completion of the study and identification of priorities, which must be accomplished within 18 months of the date of enactment of the PRIIP Act, the Secretary is required to provide his findings in a report to Committees of both the Senate and House and to the Tribe. The Secretary's report must include the list of activities and the

Secretary's findings regarding the priority factors and his consultation. The PRIIP Act also requires that the report be reviewed and updated by the Secretary, in consultation with the Tribe, no less than every two years after its submission.

We support the approach outlined by Section 4 because it provides clear guidance to the Secretary and ensures that no rehabilitation work on the PRIIP would be undertaken without prior careful consideration. Given the overwhelming nature of the PRIIP's decrepit condition, development and review of the priorities identified in the PRIIP Act would ensure that the rehabilitation activities are conducted efficiently and in a logical and effective order. The Committee could certainly consider additional priorities to be added and modify the reporting requirements outlined by the current version of the bill; however, we feel that the current draft is a reasonable approach to breaking down the immense amount of work needed on the PRIIP into smaller, more easily accomplished projects.

C. Section 5 – Irrigation Infrastructure Grants and Agreements.

Section 5 of the PRIIP Act creates the mechanism by which the rehabilitation, repair and replacement of the deficient irrigation infrastructure can be completed. Under this Section, the Secretary is authorized to enter cooperative agreements or provide grants to the Tribe for the planning, design, construction or implementation of any appropriate activity identified by the Secretary in his study of the PRIIP. The Section also requires the Secretary to consult with the Tribe and the Assistant Secretary for Indian Affairs in providing such assistance and requires that he coordinate the activity with any work being done by the BIA's operations and maintenance program. Lastly, the Section

includes a cost sharing requirement that limits the federal share of such projects to 75% but also allows the Secretary to waive that requirement upon request by the Tribe.

After years of watching the PRIIP deteriorate without action by the BIA or other federal agency, we have realized that a new approach is needed to repair and rehabilitate the project. Therefore, we are committed to working with the federal government to fix the PRIIP and to doing so on a cooperative and, where appropriate, cost-share basis.

D. **Remaining Sections.**

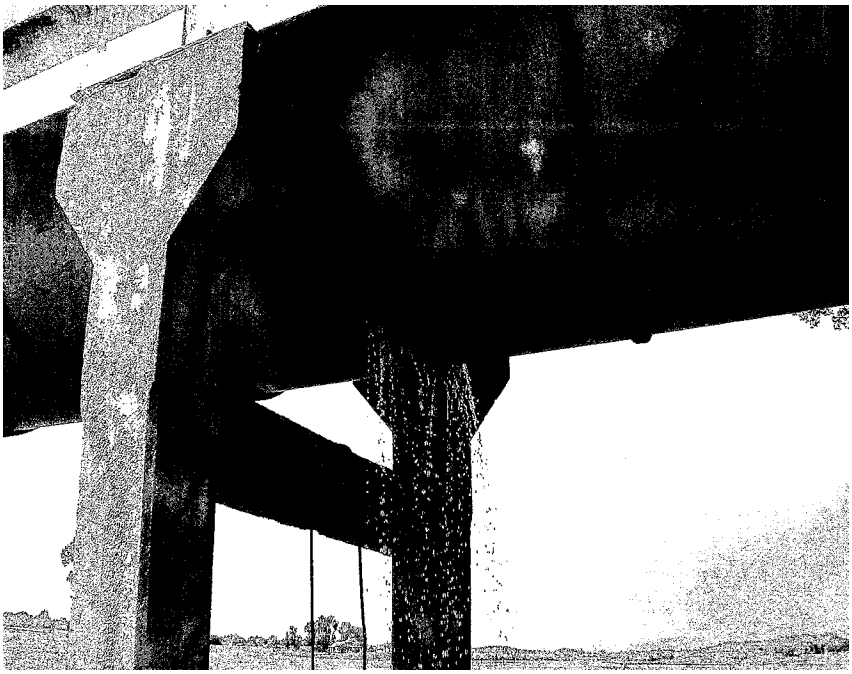
The remaining sections of the PRIIP Act make clear that nothing in the Act is intended to affect water rights of the Tribe or Colorado's water laws or interstate compact and authorize appropriations to carry out the study and rehabilitation work. These appropriations are divided into an amount of $4M for the study and, following that, an annual amount of $10M for each fiscal year from FY10 through FY15 for the actual rehabilitation, repair and replacement activities. For obvious reasons, this last section is critical to the success of the PRIIP Act and our efforts to finally address the project's needs.

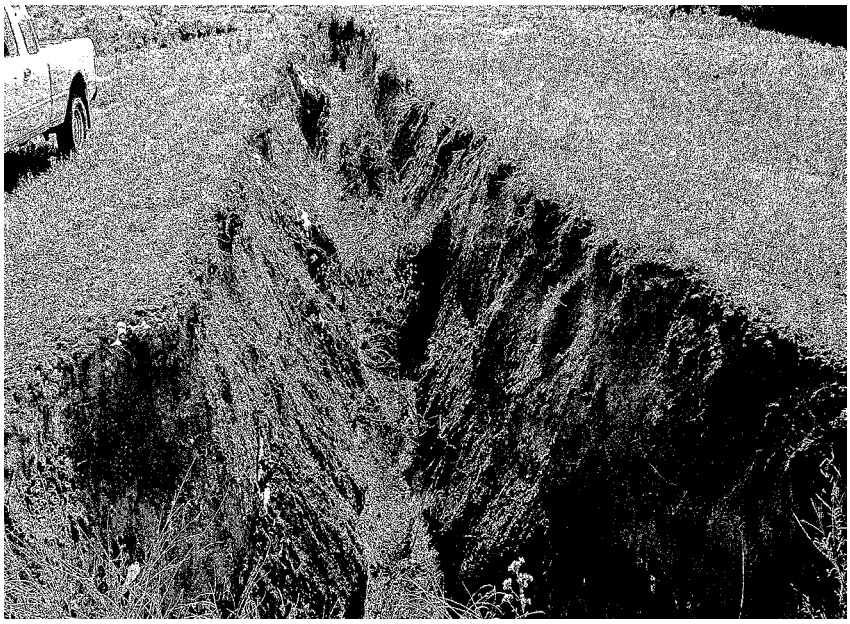
III. CONCLUSION

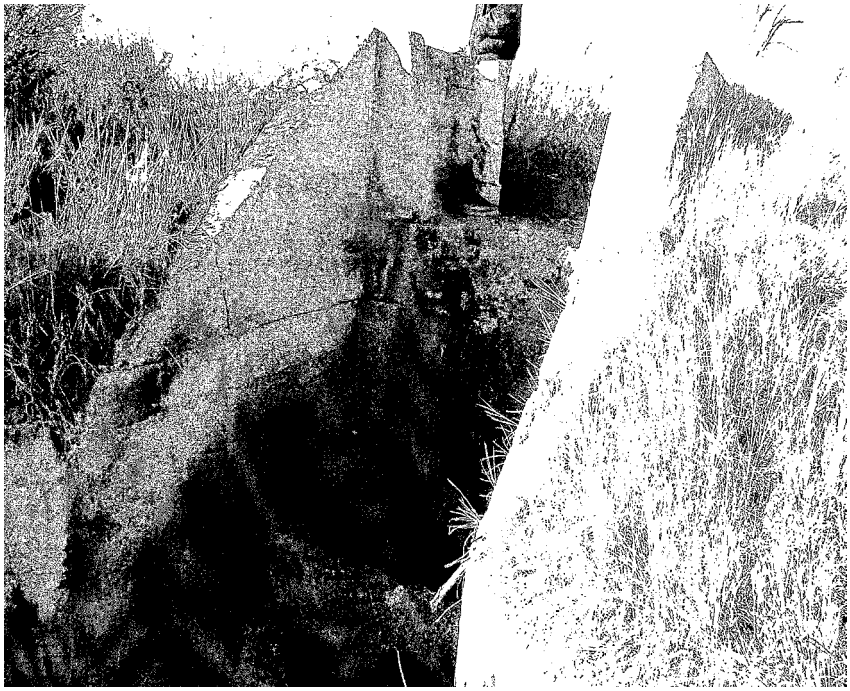
The PRIIP Act is necessary to finally fulfill the responsibilities for adequate maintenance of the PRIIP that have been ignored for so long. We fully support the approach outlined by the Act because it provides a logical, efficient and effective strategy for tackling such a decades-old and imposing problem. We are committed to working with the federal government to tackle these issues and help our tribal members and others who benefit from the PRIIP. Without such cooperation and despite our ongoing contention the federal government has been required to at least minimally maintain the

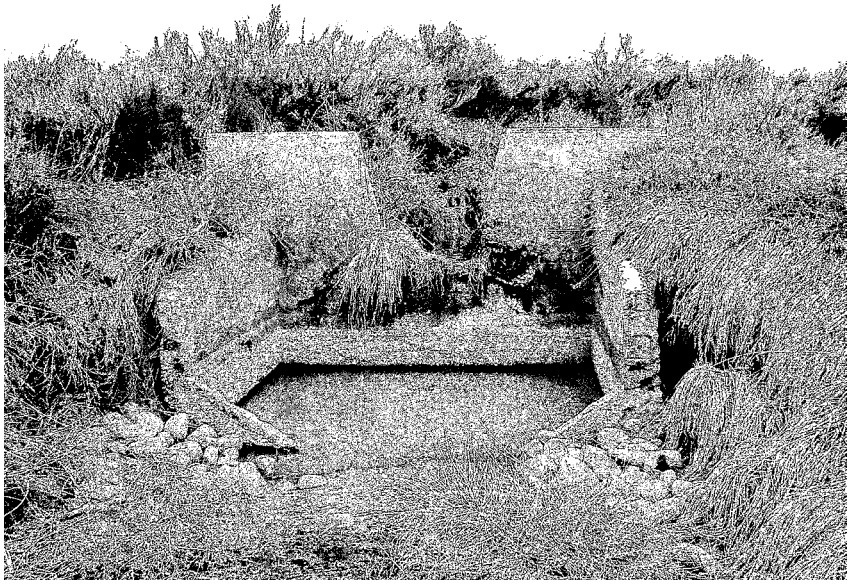
PRIIP as part of its trust responsibility to us as a federally recognized Indian tribe, it seems likely that fiscal constraints, competing agency obligations and general bureaucratic inertia would continue to leave the PRIIP without any prospect for improvement. Therefore, if Congress is willing to approve the PRIIP Act and appropriate the necessary funds to see it through, we are willing and able to finally restore the PRIIP to its intended working condition. I am honored to appear before you today and respectfully thank you for your consideration of my testimony.

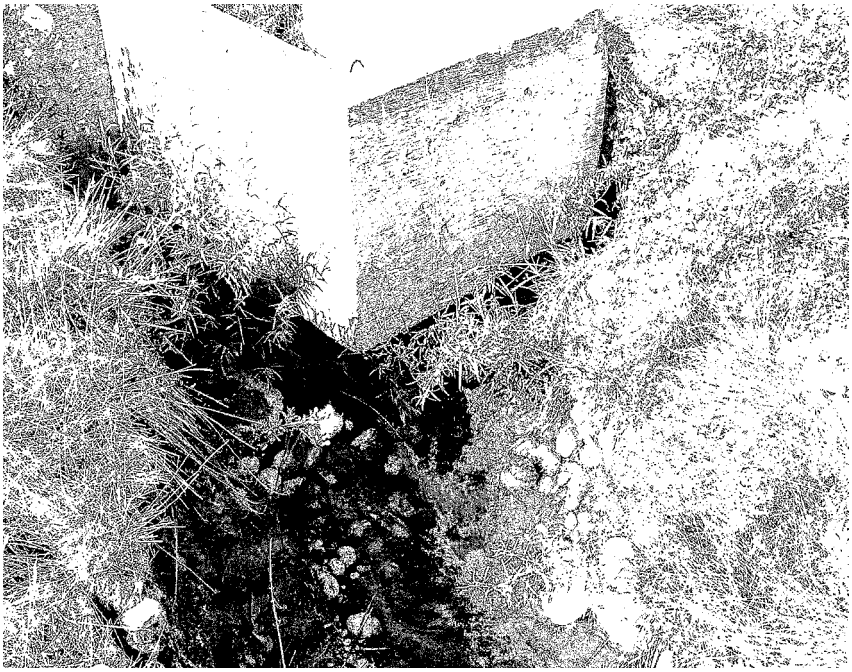
Attachments

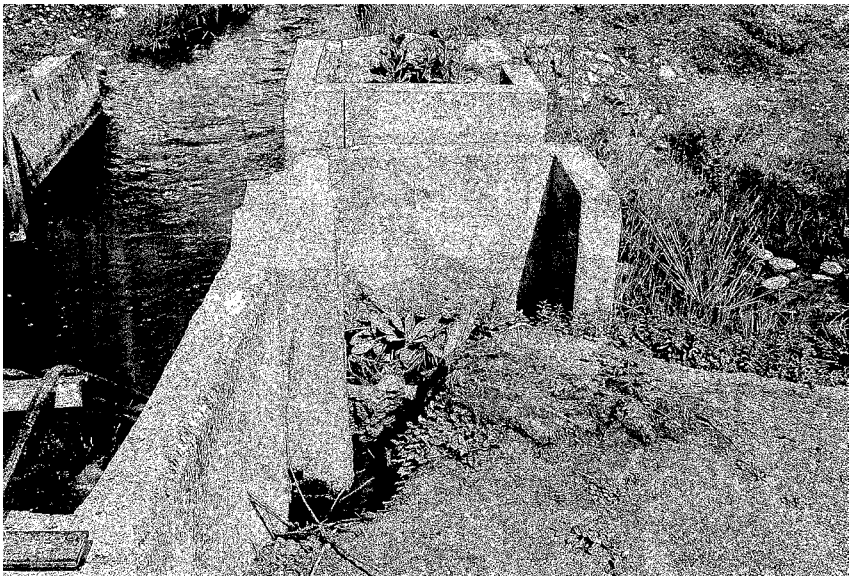


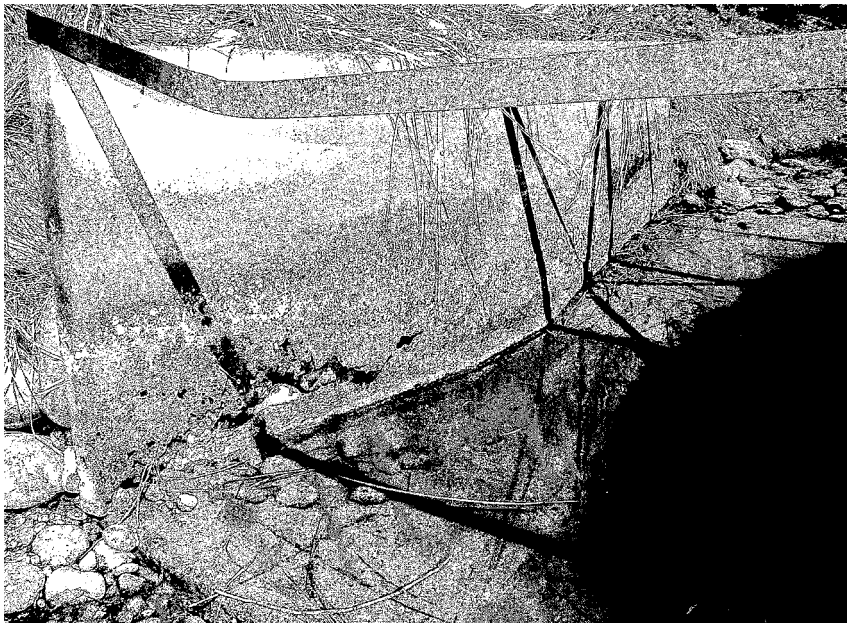


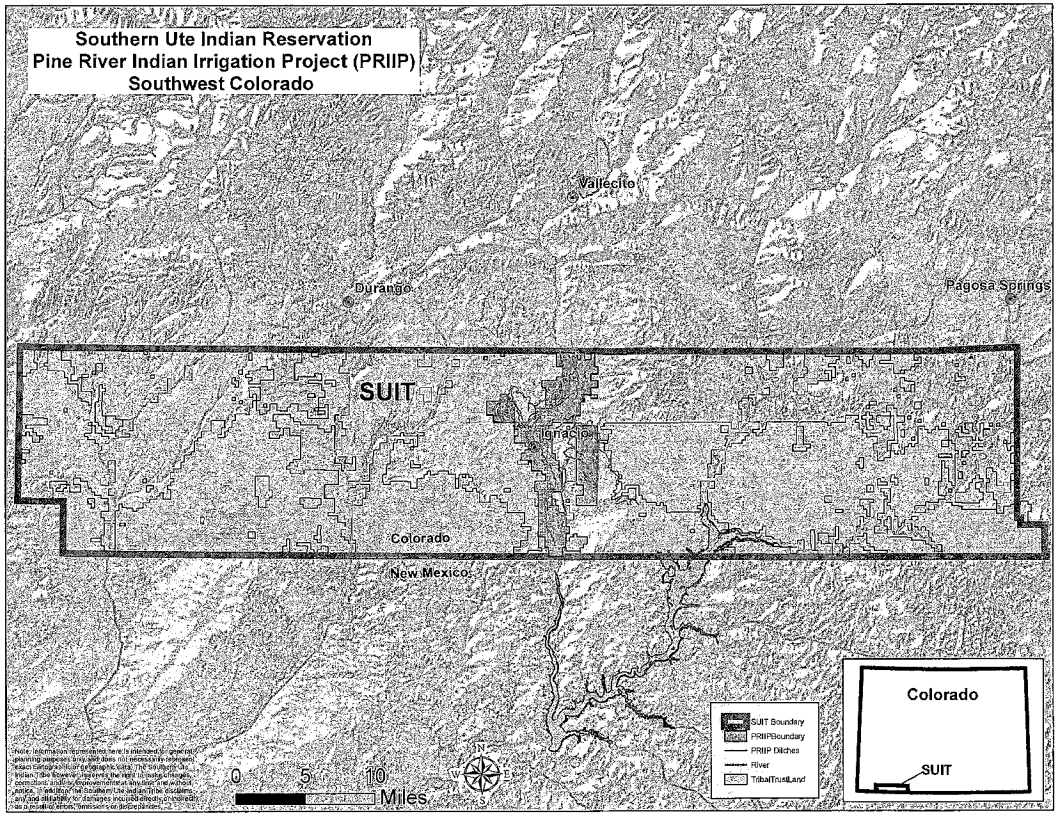


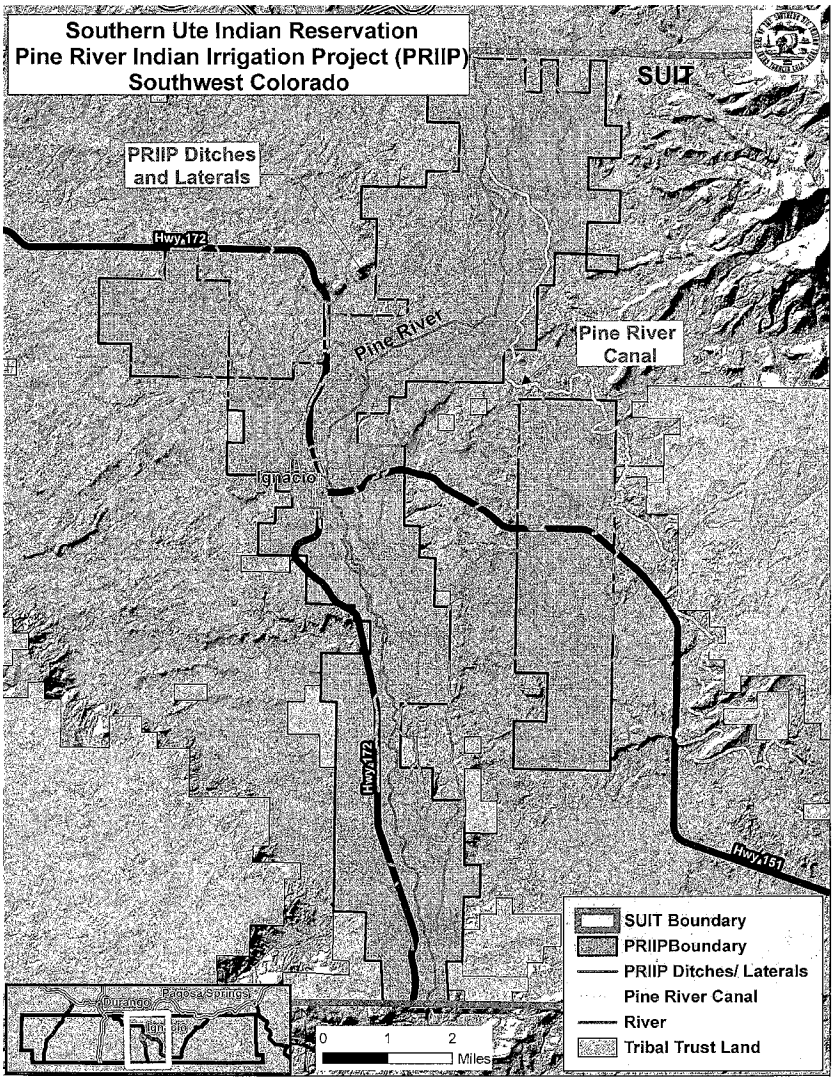









Southern Ute Indian Reservation
Pine River Indian Irrigation Project (PRIIP)
Southwest Colorado
Vallecito
Durango
Pagosa Springs
SUIT
Ignacio
Colorado
New Mexico
0 5 10
Miles
SUIT Boundary
PRIIP Boundary
PRIIP Ditches
River
Tribal Trust Land
Colorado
SUIT



The CHAIRMAN. Chairman Box, thank you very much. We appreciate your testimony.

Finally, we will have testimony from Lena Atencio, who is the Director of the Department of Natural Resources at the Southern Ute Indian Tribe in Colorado.

Ms. Atencio, you may proceed.

STATEMENT OF LENA ATENCIO, DIRECTOR, DEPARTMENT OF NATURAL RESOURCES, SOUTHERN UTE INDIAN TRIBE

Ms. ATENCIO. Thank you, Chairman and Senators, for hearing my testimony today.

As Chairman Box indicated, I am here mainly to talk about the technical reports that have been provided that cover some of the aspects of what maintenance and non-maintenance has been done on the Pine River Irrigation Project.

As was discussed earlier, the project was actually established in the early 1900s to provide agriculture to those tribes not only on Southern Ute, but other tribes within the Nation, to become more agricultural farmers. With that, there was around 18,000 acres at that time that was indicative of what should have been included on the PRIIP project. But when a report was finally done in 1969, the Redesignation Survey, it showed that agriculture was on the increase from the 3,500 to the 7,500 acre.

And there are miles that were built beyond the early 1900s, which was 170 miles with 1,263 structures which includes flumes, ditches, head gates, drop structures, and the 12,000 irrigable acres on the system today, with an anticipated possible increase to 17,000 acres should delivery get to the end point of where we need to go.

But right now as of today, there is only around 75,000 irrigable farmed acres because of the incapacity of the system to carry the water from the beginning of the system near Vallecito all the way down south towards our southern borders of the reservation.

In 2006, there was a GAO audit also done, reviewing not only our project, but other projects in the Nation, showing that there is the deterioration of the irrigation systems based on no activity or low maintenance, because the Bureau I don't think has the capacity to realize what type of maintenance needs to be done, so that was one of the issues in the 2006 study.

And then in 2009, the Bureau of Indian Affairs had an engineering firm, HKM, come in an reevaluate our system. They were only able to evaluate 13 percent of the structures that were identified. And of the actual canals, 54 percent of those were reviewed. So there was only a partial review of the entire system, which does not give us an entire view of what the costs would be.

The HKM study, based on their review, showed that there was a $20 million deferred maintenance backlog. And looking at a 2001 Central Office review that was done, there was a $60 million deferred backlog. So there is a difference between the $20 million and the $60 million.

And as Chairman Box indicated, we are looking at should we be authorized for the $4 million to be able to do the study, that will give us an idea of actually between where the $20 million and $60 million deferred maintenance falls.

And that is all I have.

[The prepared statement of Ms. Atencio follows:]

PREPARED STATEMENT OF LENA ATENCIO, DIRECTOR, DEPARTMENT OF NATURAL RESOURCES, SOUTHERN UTE INDIAN TRIBE

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.

IV. 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.

V. 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.

The CHAIRMAN. All right. Thank you very much.

Senator Udall? Or either of the Udalls? Do you have any questions?

Senator MARK UDALL. Mr. Chairman, if I might, I would ask Ms. Atencio. Did you say 75,000 acres are what can be irrigated today? Can you share what acreage might be able to be farmed?

Ms. ATENCIO. Actually, it is 7,500.

Senator MARK UDALL. Seventy five hundred acres.

Ms. ATENCIO. Right.

Senator MARK UDALL. That was my mistake. Do you have an amount of acreage that perhaps could be irrigated and turned into productive farmland? We should say when the project is enhanced.

Ms. ATENCIO. The anticipated total amount would be 17,000 acres.

Senator MARK UDALL. Seventeen-thousand acres.

Ms. ATENCIO. So an increase.

Senator MARK UDALL. It was very significant, a 20-fold increase. Senator Dorgan is great with numbers. He may have to help me, as is his colleague Senator Conrad.

I have to note for the record that you clearly have lived this situation. You repeated and shared all of those facts and figures with us without a prepared statement. The Chairman is nodding. You care, I am sure deeply, about getting this right, and I want to thank you for that testimony, and thank Chairman Box as well.

If there is anything that you didn't have a chance to share with the Committee, we would be happy to hear it at this point. But I look forward to working with you and bringing this piece of legislation to fruition and keeping our promise to the good people of southwestern Colorado.

The CHAIRMAN. Senator Udall, thank you very much.

My understanding, if I might just inquire, S. 2802, the Blackfoot River Land Settlement Act that was introduced by Senator Crapo, Senator Crapo was going to try to be here. I think he has been delayed. But my understanding is that this legislation is a relatively small piece of legislation. It authorizes $1 million of compensation and resolves the property issue.

I was just asking the staff, who was trespassing? The word trespass is used in the Committee staff memo here, and they indicated to me that this is, as you say, boundaries that have been changed by the Corps of Engineers and have caused difficulties. So the result is that you have now reached some agreement and have reached a settlement that has been widely agreed to.

So we have to have a hearing on these pieces of legislation to proceed. We will seek the Administration's views. It seems to me that the work that has been done to reach agreement locally is very important here and is good work.

Let me just also say that on the bill that is the Indian Development Finance Corporation, as I mentioned earlier, that has been kicking around for a long, long time. Senator Inouye has great credibility, as you know, in this Congress on these issues. And I think that that, by contrast to the rather small fix that is required in the previous bill, this is a very significant piece of legislation. It will require significant action by the Committee and the Congress. I am going to seek the advice and the recommendations of the Administration as well as we go forward, and I appreciate the work.

Chairman Box, my understanding from your testimony and the Committee memo is that this irrigation project was begun in the 1800s and has fallen into substantial disrepair. My further understanding is the substantial benefit of it, of course, is to the Indian tribe, but there is some benefit to non-Indians.

And so this has a long, tortured history, and I think it would be wise for all of us to understand the responsibilities and the need to proceed, number one, on the planning side; and number two, to make a commitment to try to fix the things that are wrong here.

Senator Tester, you have just joined us. Did you have any comments or questions?

STATEMENT OF HON. JON TESTER, U.S. SENATOR FROM MONTANA

Senator TESTER. I did, if I might, Mr. Chairman.

The CHAIRMAN. Yes, of course.

Senator TESTER. And I apologize for being late. I got waylaid in traffic.

The CHAIRMAN. Not at all.

Senator TESTER. I have a few questions for Alan that deals with the bill that the Chairman was talking about. And I am sorry I missed your opening statement. You may actually have addressed some of these in the opening statement as you went through it.

As the Chairman pointed out, President Reagan vetoed a predecessor bill to this bill in 1988 because he said, "The bill would create an expensive and unnecessary new bureaucracy and duplicate current existing programs and would not have addressed the underlying problem of economic development in Indian Country. Finally, the legislation places the Government at risk of substantial financial loss and does not provide sufficient authority for governmental oversight of the financial activities that can result in such a loss."

How do you respond to that? Do you see it creating a new and expensive bureaucracy?

Mr. PARKER. Thank you for the opportunity to respond, Senator Tester.

Obviously, I can't speak for Senator Inouye, but I think that it was our view at the time that this would not create a huge new bureaucracy. It would be a rather slimmed-down, highly specialized organization. It is modeled after the successful record of development finance institutions that have been created by the World Bank over the years.

Senator TESTER. Have they been pretty slimmed down themselves?

Mr. PARKER. I am not really sure how to answer that question. I think I can really envision how the Development Finance Corporation that is being proposed here would operate, and I think it would operate with a relatively small organizational overhead.

Senator TESTER. Are there existing programs that this bill would duplicate?

Mr. PARKER. I know that at the time they pointed to the Indian Financing Act Program as an example of something that is already out there. I think that the key difference between what is being proposed here is a development bank that the tribes have a stake in, because it would create a stock corporation that would issue shares of stock to every tribe that wants to participate.

Now, that is entirely different from what the BIA does simply as a loan guarantee program with a very small loan budget.

Senator TESTER. And that is the Indian Financing Program that you talk of?

Mr. PARKER. Yes, and the BIA.

Senator TESTER. How effective has that been?

Mr. PARKER. I think, given the resources they have to work with, I think they have a moderately successful record.

Senator TESTER. But you need more of an investment, is what you are saying, or at least capacity for more of an investment?

Mr. PARKER. If I can add to that, Senator, the vision that is really behind this proposal is that it would enable the tribes to effectively work with each other and together so that you bring those tribes who have some capital to bring to bear with those tribes who are far from the commercial trade centers of the Country, but yet have a resource base that has not been developed.

Senator TESTER. Why can't commercial lenders accomplish this?

Mr. PARKER. Well, I think that the commercial lenders in theory could accomplish this, but there are significant obstacles to their getting involved, again similar to what the World Bank's institutions have faced. The way to really overcome those obstacles is to bring in the tribes so that they are participating and finding ways to put the financing together, negotiate agreements where the tribes are willing to commit themselves to it. I just think that kind of working organization simply can't be done by some commercial bank.

Senator TESTER. Last question.

Go ahead, Ron. Go ahead.

Mr. ALLEN. Thanks, Senator.

If I might add to it, a lot of the investment we are looking for such as energy development, telecommunication infrastructure and enticing other kinds of industries onto our reservations, the financial industry is not interested in investing. And so the vehicles and the capacity is simply not there.

Senator TESTER. They are not interested in investment in Indian Country.

Mr. ALLEN. No. I can tell you right now, as a tribe who has reached out for those kinds of ventures, it is not there at any cost.

Senator TESTER. I think we see that in a lot of energy development in particular, as a matter of fact.

Last question. Will the bill place the Federal Government at any sort of financial risk?

Mr. PARKER. I think that the bill certainly would have the Federal Government in a position to make commitments that include some risk, particularly if you are providing a Federal guarantee to both bank loans and when the tribe issues a bond if it goes forward. If that bond was guaranteed by the Federal Government in the way that the Indian Financing Act, for example, guarantees a bank loan, there certainly is a risk there.

I don't think it is an unreasonable risk, given what you are making possible happen.

Senator TESTER. Got you.

Ron, did you have any comments on that?

Mr. ALLEN. Yes, Senator. I agree with Alan's assessment. The risk is there, but it is a low risk. It is an investment by the United States into a vehicle that will address an unmet need with respect to capital investment on Indian reservations. We think that there has been a lot of lessons learned by past experiences and by what is even going on in the current financial industry.

So we think that the bill has the good makeup. We would like to explore refinements to it that would minimize those risks. And we think it is very doable.

Senator TESTER. Minimal risk—does the bill contain adequate oversight and regulation?

Mr. ALLEN. Yes.

Senator TESTER. Okay. Thank you very much. I appreciate you all being here for the hearing.

Chairman Box, do you live here?

[Laughter.]

Senator TESTER. You are here for almost every one of them.

[Laughter.]

Senator TESTER. It is good to have you all here.

The CHAIRMAN. Senator Udall, do you have any questions?

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator TOM UDALL. Yes, thank you, Chairman Dorgan, and thank you for holding this hearing.

Mr. Parker and Mr. Allen, it is my understanding that a version of S. 439 was introduced in the 100 th Congress in response to a 1977 study by the American Indian Policy Review Commission that recommended the establishment of this, as we have been discussing, World Bank-type institution to meet economic development needs in Indian Country.

The World Bank has changed significantly over the last 20 years and has received some serious criticism, a lot of it directed towards the sustainability of projects and those kinds of things.

What changes have been made in the ensuing years to ensure that this proposal is not outdated or inappropriate for Indian Country?

Mr. PARKER. Thank you for the question, Senator Udall.

I think that apart from the success of the tribes in the business of operating gambling casinos, which is a very specialized form of business, the economic conditions that prevail all across Indian Country are still very extreme, extreme poverty and extremely limited opportunities.

And I think that there needs to be an institution like this that can put together the resources, mobilize the resources to begin to really make progress at overcoming those problems, overcoming those economic conditions.

I wanted to add, if I could please, that the Council of Energy Resource Tribes organization, I am sure you are familiar with who they are. I spoke with David Lester yesterday. He is very anxious to get his testimony on the record as a written statement, as well as the National Indian Gaming Association. Again, they recognize that this allows those successful gaming tribes to be able to put some of their capital to work with their colleagues across those areas of Indian Country which gaming has not provided any benefit to because there is no market for it.

And I think finally the Native American Finance Officers Association will be coming in with a statement of support. The Native American National Bank based in Denver, their board is made up

of tribal shareholders, and they are coming in with a statement saying that they agree and support this legislation.

Senator TOM UDALL. And I am sure Chairman Dorgan will leave the record open for a little bit, I assume, to get in those statements. I don't see any of them today except the National Congress of American Indians.

Mr. Allen, do you have any thoughts?

Mr. ALLEN. Yes, Senator, if I might add to Alan's response.

We believe that as you explore the bill, explore the structure of this proposed development bank, that it needs to be tied very closely to the Federal Reserve System and the Department of Treasury. We are thinking outside the box here. We are not proposing the old DOI–BIA approach in terms of how this proposal thing would be advanced.

This is a venture that would complement what the commercial industry is doing. This is a venture that would complement what DOI-BIA's Loan Guaranty Program provides. It addresses a serious unmet need. It will not solve all of our problems, but it will provide a vehicle where you have stable programs. You have solid revenue generation by tribes who can use those revenue sources to go out and develop the infrastructure to change their economies.

Telecommunication, the tele-industry and website industry are changing. We want to be in on the action. We don't want to be the last one in the door.

And so this vehicle is different from the original version. The risk is there, but it is a low risk, and if we tie it to the industries and the standards that the Federal Reserve and the Treasury Department expect, then there will be very stringent guidelines in terms of how you would invest and the due diligence process.

Senator TOM UDALL. Would either of you consider the Indian Development Finance Corporation outside of or in addition to the Government's trust responsibilities?

Mr. ALLEN. As a tribal leader, I would argue that it is complementary to it. The Federal Government has made a commitment to enhance the tribes' ability to become self-reliant, to become self-governing, to develop our own economies. And we have had many, many examples of failure.

What this venture would do, the Indian Development Finance Act will do is strengthen our capacity as governments and provide us the same equitable, fair opportunity to access capital, to infuse that capital into our reservations and our economies to become self-reliant, create industries, create jobs, and create revenue, not just for our people, but for our governments.

Senator TOM UDALL. Thank you to all of the panel. It has been very good testimony today.

Thank you, Chairman Dorgan.

The CHAIRMAN. Thank you very much.

Let me ask, my understanding is that the bill would have the Secretary of the Interior purchase stock, and yet it seems to me it is probably more logical to have the Treasury involved as opposed to the Secretary of the Interior. Why do you have the Secretary of the Interior in the legislation?

Mr. PARKER. Senator, I think that the Secretary of Interior's role is to create an office within the Department of Interior that could

then organize itself to issue the stock to the tribal shareholders, as well as retain a supervisory function in terms of the activities of the organization.

But the Department of Treasury certainly could have a role to play if the Committee wanted to write that into the legislation.

The CHAIRMAN. Would it be the case that the oversight for an Indian Development Finance Corporation Act, the oversight for an enterprise of that type would be more likely to be successful in the Treasury Department? Would it not? What particular expertise would the Secretary of the Interior have to provide oversight to a finance corporation development enterprise?

I would just ask the question.

Mr. ALLEN. That is my view. I differ with Alan's perspective on that agenda, and that is something I think that the Congress should take up on deliberation.

Our relationship is with the Federal Government, so where should we look to for the expertise in any particular area we are dealing with? If it is energy, we will go to Energy.

We are talking finances now. So in my opinion, the Department of Treasury has a key role and an expertise that Interior doesn't. In the old days, you expected Interior to solve all Indian problems. We can't go there anymore.

The CHAIRMAN. And when you talk about in the testimony mitigating risks for the private sector, that mitigation of risk is because of Federal guarantees. Is that not correct?

Mr. PARKER. Primarily.

The CHAIRMAN. So the assumption of risk that otherwise would exist is an assumption by the Federal Government.

Mr. PARKER. Yes.

The CHAIRMAN. This is I think an idea that is very worthy of this Committee and the Congress to consider. It is quite clear to me that, for example, in energy there is so much untapped potential for development of energy across the Country on Indian lands, and there is very little capital available to do it.

So I think there is clearly a need to do this. I don't know how likely it is going to happen right now, but I wanted to hold the hearing now at Senator Inouye's request so that the Committee can begin to sink their teeth into this question and evaluate what is possible to be done now and also in the future, because I think we would ignore the unmet capital needs at the peril of the economic health of tribes and members of tribes who expect to participate in this Country's economic largesse and the recovery from this recession and so on.

So I think this is a good time for us to discuss it, and we will have to try to determine what we are capable of doing and what kind of a timeline might exist for doing it.

To the other four of you who have come, Mr. Coby and Mr. Walker, I am pleased that we could have you come and describe to us what you have negotiated. It seems perfectly reasonable to me to resolve this with a relatively small amount of money, and yet provide some certainty.

To Chairman Box and Ms. Atencio, I think you have done an excellent job of making your case. This is a project of longstanding, but it needs attention and it needs attention now.

So the Committee will take action on these issues. We will consider them and evaluate what action is needed to be taken in the coming weeks.

In the meantime, we will keep the record open for all three bills for two weeks for anyone who wishes to submit additional testimony.

This hearing is adjourned.

[Whereupon, at 3:20 p.m., the Committee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

Mr. Chairman thank you for holding this legislative hearing on S. 439, the Indian Development Finance Corporation Act. I introduced similar legislation on March 11, 1987 during the 100th Congress. This legislation establishes an Indian Development Finance Corporation as an independent, federally-chartered corporation that is modeled after the family of Development Banks that have been established by the World Bank in lesser developed countries around the world.

Over the years, I have spent some time visiting Indian country. I have seen that in many parts of Indian country, the economic and social conditions are equally as dire as those found in "lesser developed countries" around the world. And although we have seen some economic success in recent years across Native America as a result of the Indian Gaming Regulatory Act, most Native Americans are not engaged in the conduct of gaming, or do not have the means to overcome the challenges associated with their remote locations from population centers and market places that serve the commercially-successful tribal gaming operations.

In these rurally and isolated areas, there is real potential to succeed in developing viable local economies based on agricultural and fishery resources, and the development of the vast energy resources that are located on Indian lands. There is definitely a need in Native communities for development of financial services that could include small leveraged capital investments, economic infrastructure development to support tailored industrial programs, internet-based communication services, national and international trade agreements, and economic research capabilities. An Indian Development Finance Corporation could provide these kinds of services.

Under this bill, the Corporation would be authorized to issue shares of stock to an Indian tribe or the federal government. The Corporation would be managed by a Board elected by the Tribal shareholders and the Board would be charged with hiring a President and a team of managers as well as set operating policies. Initially, $20 million in start-up funds would be invested and after the majority of common stock was purchased by Tribes, another $80 million would be authorized.

This legislation is one model that has been proved to be successful and one that could potentially provide and promote economic development among Indian country by providing financial services, technical assistance, and the necessary capital to tribally owned business enterprises.

Given that this legislation was originally drafted back in 1989 I am open to making necessary changes that might be more reflective of current times. I look forward to continuing discussions with the National Congress of American Indians and working with my colleagues in order to address any concerns that might arise.

Again, thank you Mr. Chairman.

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