



Bureau of Indian Affairs
Office of Trust Services
Division of Water and Power



**WATER INFRASTRUCTURE
IMPROVEMENTS FOR THE
NATION (WIIN) ACT OF 2016
Title III, Subtitle B
Irrigation
Landowners and Adjacent
Irrigation District Input 2017**

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WHAT IS THE PURPOSE OF TITLE III, SUBTITLE B OF THE WIIN ACT?

- The purpose of Title III, Subtitle B of the Water Infrastructure Improvement for the Nation (WIIN) Act is to help reduce the deferred maintenance impacts at specific Indian Irrigation Projects.



AGENDA

- Welcome and Introductions
- Overview of BIA Irrigation Program
- Overview of the WIIN Act
- Funds Availability Discussion
- Break
- Implementation Strategy
- Break
- Questions / Discussion
- Adjourn



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Welcome and Introductions

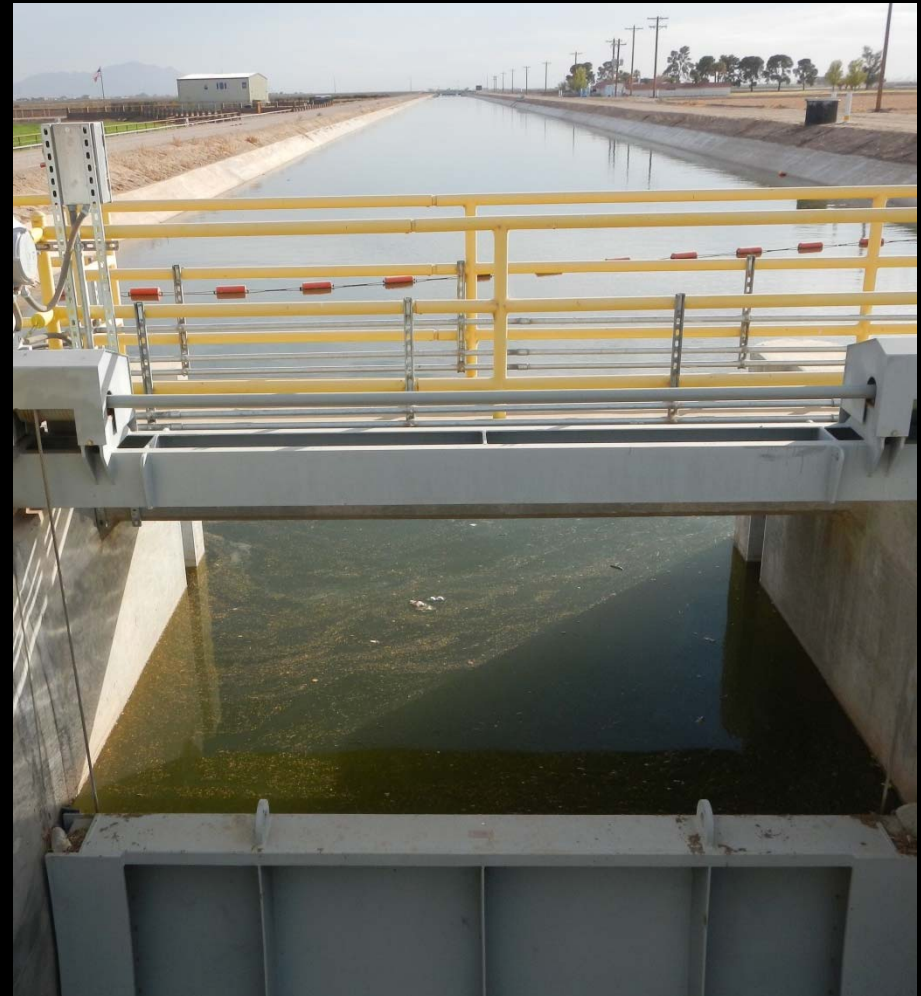
- Helen Riggs – Deputy Bureau Director, Trust Services
- Yulan Jin – Division Chief, Water and Power
- Dave Fisher – Branch Chief, Irrigation and Power
- Regional Office Leadership and Staff
- Tribal Leaders / Representatives



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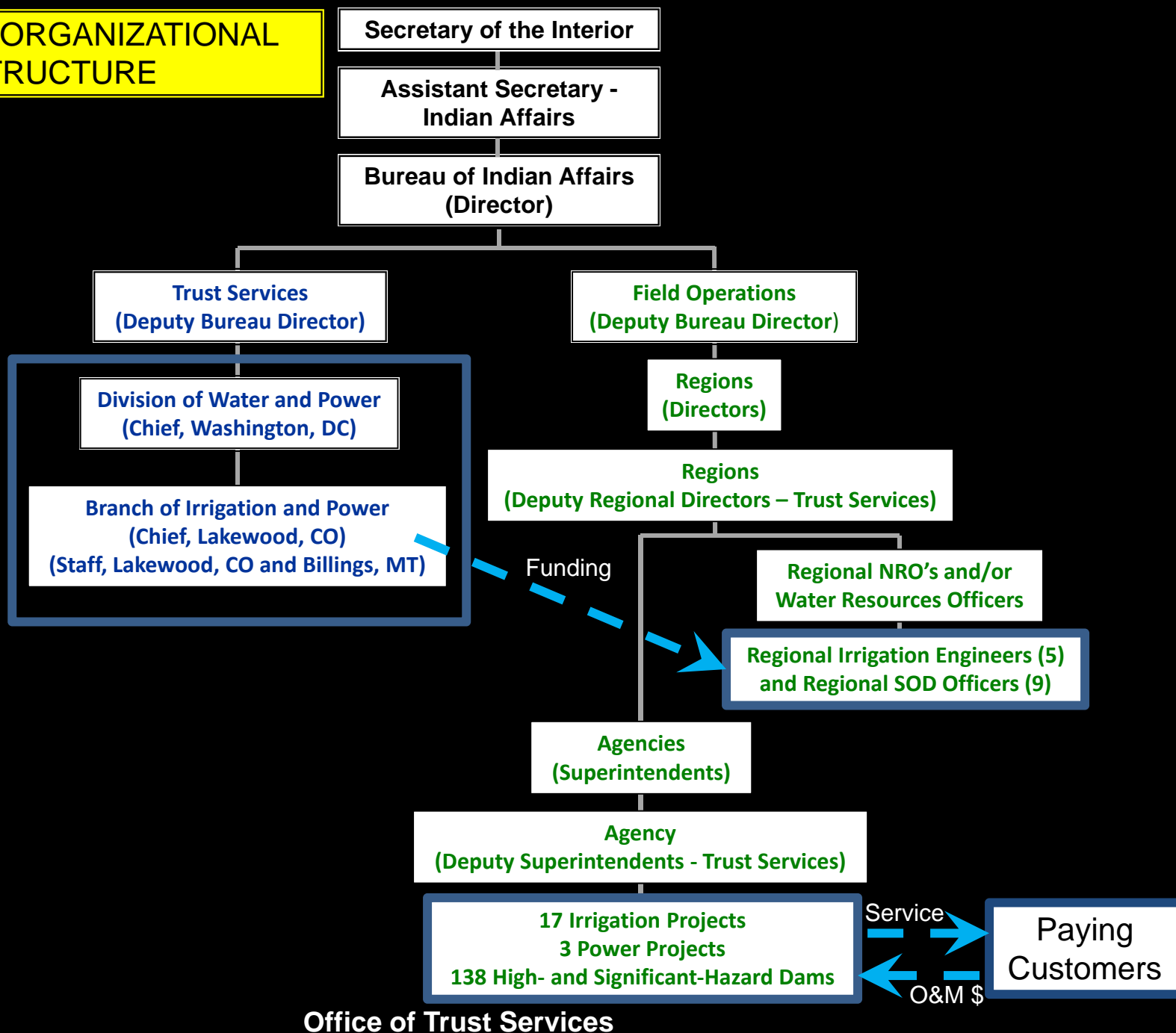
BIA IRRIGATION PROGRAM

- *To support self-determination, economic opportunities and public safety through the sound management of irrigation, dam and power facilities owned by the Bureau of Indian Affairs.*



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EXISTING ORGANIZATIONAL STRUCTURE



BIA IRRIGATION PROGRAM

- 17 Congressionally Authorized Irrigation Projects
 - 15 are Revenue Generating
 - ~\$35M in receipts annually
 - >\$960M in gross crop revenues annually
 - ~780,000 acres serviced
 - 6,300 miles of canals
 - more than 52,000 irrigation structures



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BIA Process to Document DM

- **Condition Assessment Studies**
 - Deferred maintenance estimates were developed from Condition Assessment Studies
 - Studies have been completed at all 17 eligible Projects
- The total deferred maintenance reported in 2016 was \$630 million.
- A study is underway to index all Condition Assessment deferred maintenance estimates to current dollars
 - Condition Assessment studies have been completed between 2006 and 2016



BIA Process to Support Implementation

- **Modernization Studies –**
 - Goal to look at the operational elements of BIA irrigation projects with the objective to improve resource utilization and water delivery service.
 - The process evaluates the major and minor structures within the Project to determine if they serve the current needs or if an alternative structure would be more appropriate
 - Modernization studies by Cal Poly's Irrigation Training and Research Center (ITRC) staff:
 - Wind River and Flathead Irrigation Projects completed in April 2016
 - ongoing at Wapato and NIIP with a completion date of April 2017
 - The BIA proposes to provide a Rapid Assessment Process evaluation at the projects who haven't received a settlement in the past 10 years to inform rehabilitation designs at those projects



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BIA Process to Support Implementation

- **Water Measurement Support –**
 - The BIA is committed to improving the technical skills of the staff responsible for water delivery operations at BIA Irrigation Projects. Water measurement is a key skill to ensure appropriate delivery of the Tribes' water rights.



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BIA Process to Support Implementation

- **Water Measurement Support , cont.—**
 - The BIA has completed water measurement trainings facilitated by Cal Poly's ITRC for BIA and Tribal 638 staff from the follow projects:
 - **Navajo Region:** Navajo Indian Irrigation Project
 - **Northwest Region:** Flathead, Fort Hall, and Wapato Indian Irrigation Projects
 - **Rocky Mountain Region:** Blackfeet and Wind River Indian Irrigation Projects
 - **Southwest Region:** Pine River Indian Irrigation Project
 - **Western Region:** Colorado River, San Carlos Irrigation Project, Uintah, and Walker River Indian Irrigation Projects.
 - The BIA plans to provide training at the remaining projects over the next two years.



BIA Irrigation Program – Construction Ranking Process

- Currently receive \$2.6M for construction rehabilitation for critical deferred maintenance and construction work on BIA owned and operated irrigation facilities
- The Irrigation Projects submit candidates annually for receiving these funds
 - Candidate projects are ranked using specific criteria



BIA Irrigation Program – Construction Ranking Process

Irrigation Construction 12800 Fund Distribution Project Ranking Criteria				
Points Criteria	10	7	4	1
A) Resolve or improve health and safety issues.	100% of funds go toward addressing documented health and/or safety concerns.	80% of funds go toward addressing documented health and/or safety concerns.	30% of funds go toward addressing documented health and/or safety concerns.	Project funds would indirectly address health and/or safety concerns.
B) Project type	100% deferred maintenanceⁱ with immediate emergency needs.	100% deferred maintenance.	Pre-construction/design for deferred maintenance.	General pre-construction/design.
C) RPI value (if available)	>80	80>X>40	40>X>20	20>X>0
D) Deficiency category ranking ⁱⁱ (if available)	<u>CHSdm</u> <u>CRPdm</u> <u>CMdm</u>	<u>CHSci</u> <u>CRPci</u>	<u>C&Odm</u>	<u>Oci</u>
E) Work severity rating ⁱⁱⁱ (if available)	Critical	Serious	minor	X ¹



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BIA Irrigation Program – Construction Ranking Process

- Experience from this process will guide our proposed WIIN Act implementation, with all eligible Projects potentially receiving part of the funding each year through 2021. Sec. 3222, 3226(1)-(2)



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WIIN Act Highlights

The Secretary must:

- consult with the Indian tribes that have jurisdiction over the land of eligible irrigation projects; and
- solicit and consider the input, comments, and recommendations of—
 - (A) the landowners served by the irrigation project; and
 - (B) irrigators from adjacent irrigation districts.

Sec. 3225(1)-(2)



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WIIN Act: Repair, Replace, & Maintenance

The Secretary shall establish a program to address the *deferred maintenance needs and water storage needs of Indian irrigation projects* that—

- (1) create risks to public or employee safety or natural or cultural resources; and
- (2) unduly impede the management and efficiency of the Indian irrigation program.

Sec. 3221(a)



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WIIN Act: Funding

- \$35,000,000, plus accrued interest, for each of fiscal years 2017 through 2021 to carry out maintenance, repair, and replacement activities (subject to appropriations)
 - includes structures, facilities, equipment, personnel, or vehicles used in connection with the operation of those projects
- funds are NOT:
 - subject to reimbursement by the owners of the land served by the Indian irrigation projects; or
 - assessed as debts or liens against the land served by the Indian irrigation projects

Sec. 3221(b)



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Funds Availability

- For each of fiscal years 2017 through 2021, the Secretary of the Treasury shall deposit in an Irrigation Fund \$35,000,000 from the general fund of the Treasury.
 - The Act creates and funds a Treasury Account subject to appropriation and may require offsets.
- Amounts deposited in the Fund under subsection (a) shall be used, **subject to appropriation**, to carry out this subtitle.
 - If funds become available, they shall only be used on the eligible Irrigation Projects
- Given the current budget cycle, BIA's earliest opportunity to request this funding is during the FY19 budget formulation

Sec. 3211, 3212



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WIIN Act: Eligible Projects

The projects eligible for funding are the Indian irrigation projects in the western United States that, on the date of enactment of this Act—

- are owned by the Federal Government
- are managed and operated by the Bureau of Indian Affairs including projects managed, operated, or maintained under contracts or compacts; and
- have deferred maintenance documented by the Bureau of Indian Affairs.



SEC. 3222

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WIIN Act: Status Report

A STATUS REPORT will be submitted to Congress by December 16, 2018 and every 2 years thereafter. The report will include a description of:

- (1) the progress made toward addressing the deferred maintenance needs
- (2) the outstanding needs of those projects that have been provided funding to address the deferred maintenance;
- (3) the remaining needs of any of those projects;
- (4) how the goals established have been met

Sec. 3224(d)



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WIIN Act: Allocation Among Projects

- Each eligible Indian irrigation project will receive part of the funding every year to address critical maintenance needs.
- Priority given to eligible Indian irrigation projects:
 - serving more than 1 Indian tribe within an Indian reservation and
 - that have **not** had funding made available from December 15, 2006 through December 15, 2016 to address the deferred maintenance, repair, or replacement needs.

Sec. 3226



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WIIN Act: Cap on Funding

- An individual Indian irrigation project cannot receive more than \$15,000,000 during any consecutive three year period.
 - Exception: If all eligible projects receive \$15,000,000 in a three year period, the remaining funds can be allocated over that cap.
- If the Secretary does not expend all of the \$35,000,000 that is available in a year, the remaining amount may be spent in a subsequent year.
- Unspent funds as of September 30, 2021 will return to Treasury

Sec. 3226 (c)



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10 minute BREAK



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Implementation Strategy

- Activities Timeline
- Preliminary Determination of Eligible Projects
- Programmatic Goals and Report to Congress
- Proposed Funding Priorities
- Proposed Funding Distribution Method
- 2-Year Study of BIA's Irrigation Program and Project Management



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BIA Timeline to Accomplish WIIN Act

Date	Activity
December 10, 2016	WIIN Act passes Senate/House, Referred to President for signature
December 16, 2016	President signs into law, 120-day clock starts
February 6-10, 2017	Tribal consultation meetings held
February 11- March 3, 2017	Comment period for Tribes; BIP meet with landowners and adjacent irrigation districts
April 15, 2017	Implementation Report submitted to Congress
December 16, 2018	Study of Indian Irrigation Program and Project Management due to Congress
December 16, 2018	Status Report due to Congress every 2 years



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Preliminary Determination of Eligible Indian Irrigation Projects by Region (Section 3222)

Navajo Region

- Navajo Indian Irrigation Project

Northwest Region

- Flathead
- Fort Hall
- Wapato



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Preliminary Determination of Eligible Indian Irrigation Projects by Region (Section 3222)

Rocky Mountain Region

- Blackfeet
- Crow
- Fort Belknap
- Fort Peck
- Wind River

Southwest Region

- Pine River



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Preliminary Determination of Eligible Indian Irrigation Projects by Region (Section 3222)

Western Region

- Colorado River
- Duck Valley
- Pyramid Lake
- SCIP-IW
- SCIP-JW
- Uintah
- Walker River



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Implementation Report

After consultation with the representatives of affected Indian tribes, and considering the input, comments, and recommendations of the landowners served by the irrigation project and irrigators from adjacent irrigation districts, the BIA will develop a report to Congress by April 15, 2017 that includes:

- programmatic goals
- funding prioritization criteria
 - We do not need a prioritized list of construction rehabilitation sites for this report
 - Region/Agency/Project staff will work with the Tribe to develop a list of priorities informed by an upcoming or existing Modernization or Rapid Assessment Process study



SEC. 3223

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Implementation Report's Mandatory Funding Distribution Criteria

As a methodology for distributing funds, prioritization among the Irrigation Project will be based:

- Risks to public or employee safety or health
- Risks to natural or cultural resources
- Ability of BIA to carry out its mission
- Extent of compliance with other laws or requirements
- Extent to which unmet needs are addressed



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Implementation Report's Mandatory Funding Distribution Criteria (cont.)

- Rehabilitation Priority Index (RPI) methodology
- Economic development and job creation in the affected tribal communities
- Ability to address tribal, regional and watershed level water supply needs
- The Secretary of the Interior may develop additional criteria that are consistent with tribal and user recommendations

Sec. 3223



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Implementation Report's Programmatic Goals

The programmatic goals of the Implementation Plan must:

- Enable completion of projects as expeditiously as practicable;
- Facilitate or improve the ability of the BIA in operating projects;
- Ensure that the results of the consultation are addressed;
- Use non-Federal contributions to address tribal, regional, and watershed-level supply needs.

Sec. 3223



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BIA Proposed Funding Distribution Methodology Among Irrigation Projects

- The proposed BIA funding approach is to distribute funds among the eligible Irrigation Projects based on Deferred Maintenance (DM), taking into consideration the economic impacts of a failure to deliver water. Impacts would take into account:
 - Crop loss, crop values
 - Infrastructure failure repair costs

Sec. 3226



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Study and Report on Indian Irrigation Program and Project Management

The BIA will provide a study of the Indian irrigation program and project management. The STUDY, due by December 16, 2018, will:

- evaluate options for improving programmatic and project management and performance of irrigation projects managed and operated in whole or in part by the BIA
- determine the cost to financially sustain each project;
- recommend whether management of each project could be improved by transferring management responsibilities to other Federal agencies or water user groups; and

SEC. 3224



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Study and Report on Indian Irrigation Program and Project Management

STUDY topics, continued:

- include recommendations for improving programmatic and project management and performance
 - (A) in each qualifying project area; and
 - (B) for the program as a whole.

This is NOT the same as a Modernization study...



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Study and Report on Indian Irrigation Program and Project Management

- The BIA will study and report on the Indian Irrigation Program and project management to Congress. The study and report, due by December 16, 2018 will:
 - evaluate options for improving programmatic and project management and performance of irrigation projects managed and operated in whole or in part by the Bureau of Indian Affairs
 - Determine the cost to financially sustain each project

Sec. 3224



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Study and Report on Indian Irrigation Program and Project Management (cont.)

- The BIA will submit by December 16, 2018 a Report to Congress that:
 - recommends whether management of each project could be improved by transferring management responsibilities to other Federal agencies or water user groups;
 - Includes recommendations for improving programmatic and project management and performance
 - (A) in each qualifying project area; and
 - (B) for the program as a whole.



Status Report to Congress

A status report will be submitted to Congress every 2 years that includes a description of—

- (1) the progress made toward addressing the deferred maintenance needs of the Indian irrigation projects, including a list of projects funded during the fiscal period covered by the report;
- (2) the outstanding deferred maintenance needs of those projects that have been provided funding to address the deferred maintenance needs pursuant to this part;
- (3) the remaining needs of any of those projects;



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Status Report to Congress (cont.)

- (4) how the goals established have been met, including—
 - (A) an identification and assessment of any deficiencies or shortfalls in meeting those goals; and
 - (B) a plan to address the deficiencies or shortfalls in meeting those goals; and
- (5) any other subject matters the Secretary, to the maximum extent practicable consistent with tribal and user recommendations received pursuant to the consultation and input process determines to be appropriate

Sec. 3224



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Allocation Among Projects

Section 3226

- The Act mandates the BIA Projects serving more than one (1) tribe would receive a higher priority:
 - Wind River Indian Irrigation Project
 - Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation



Allocation Among Projects

Section 3226

- Projects that had funding made available for the same purpose as the WIIN Act from December 15, 2006 through December 15, 2016 are mandated to receive a lower priority:
 - **Crow Indian Irrigation Project**
 - Crow Tribe Water Rights Settlement Act of 2010, Public Law 111-291, signed into law on December 8th, 2010.
 - **Duck Valley Indian Irrigation Project**
 - 2009 Omnibus Public Land Management Act (H.R. 146, 111th Congress)



Allocation Among Projects

Section 3226

- Projects receiving funds for the same purpose as the WIIN Act in the past 10 years would receive a lower priority:
 - Arizona Water Settlements Act 118 STAT. 3478
PUBLIC LAW 108-451—DEC. 10, 2004
 - San Carlos Irrigation Project - Indian Works
 - San Carlos Irrigation Project - Joint Works



Implementation Process (Section 3226)

- Applicability of ISDEAA.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall apply to activities carried out under this section.



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Questions and Discussion



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Question #1

- What input do you have regarding BIA's proposed approach to accomplish the programmatic goals of this Act, including the requirements of the "120-day Report"?



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Question #2

- What input do you have regarding BIA's proposed funding distribution methodology?



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Question #3

- What input do you have regarding BIA's proposed Study of the Indian Irrigation Program and Project Management?



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Comments?

- Written comments will be received until March 3, 2017.

- Mail:

Ms. Yulan Jin

Chief, Division of Water and Power

U.S. Department of the Interior

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Written Comments

- Written comments will be received until March 3, 2017.

- Mail:

Ms. Elizabeth Appel

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