

**BUILD BACK BETTER: WATER INFRASTRUCTURE  
NEEDS FOR NATIVE COMMUNITIES**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS  
UNITED STATES SENATE**

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

MARCH 24, 2021

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**WEDNESDAY, MARCH 24, 2021**

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

The Committee met, pursuant to notice, at 2:42 p.m. in room 628, Dirksen Senate Office Building, Hon. Brian Schatz, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. BRIAN SCHATZ,  
U.S. SENATOR FROM HAWAII**

The CHAIRMAN. Good afternoon. Today's oversight hearing will focus on the unmet water and wastewater service needs of Native communities. Water is essential for all communities' public health, especially in the midst of the pandemic, but also for education, jobs and economic development.

Many Native communities cannot provide basic water and sewer connections for their people. Other communities may have aging water infrastructure which makes the use of this infrastructure challenging. Both need additional investment.

The need for additional investment in water infrastructure is by no means unique to tribal land. In my home State of Hawaii, for example, recent flooding and landslide damage has severely compromised dams from the old plantation days, placing lives and property at risk. But the Federal Government has a special trust responsibility to ensure the general welfare of Native communities. The trust responsibility extends to providing access to providing clean and reliable water.

Today we will hear from witnesses that continue to face challenges in meeting the basic water needs of their communities. I look forward to hearing about what Congress should consider in a potential infrastructure bill, because we have a real opportunity to build a bipartisan consensus around supporting the water infrastructure needs of Native communities.

With that, I will turn to Vice Chair Murkowski for her opening statement.

**STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. I will be brief because I want to get to our witnesses here today.

But I want to show you, when we are talking about water and water systems, I am looking at an article from the Anchorage Daily News, March 14th. The headline is Fires, Deteriorating Infrastructure, and Unusually Cold Weather Strain Rural Alaska's Already Fragile Water Systems. In Unalakleet, the water drips from home faucets sometimes brown and sludgy. People say that they are tired of being afraid of our water. The water treatment plant in Unalakleet was built in the 1960s. It has been steadily failing for 10 years. Boil water notices have become a way of life in Unalakleet.

In Selawik, roughly 60 homes have been without running water for weeks. In Tuluksak, the washeteria was destroyed in a January fire. It was the only building in the village with potable running water. Two months, and still that village is faced with challenges. They now have potable water in the school, but the challenges are far from over. In Nenana, a water plant freeze-up that could have been disastrous was controlled, but you had a town enduring a boil water alert in February, in the cold of winter.

I share these because these are the conditions that people in some of the parts of my State are dealing with when it comes to access to basic drinking water, clean water, and water sanitation systems. I am pleased today to be able to have on this afternoon's panel a friend of mine, a friend of Alaska, a true leader, the Honorable Valerie Davidson. Valerie is now the interim president for Alaska Native Tribal Health Consortium. ANTHC has been doing considerable work throughout Alaska and in our rural villages to help address our water and waster infrastructure. So I am very, very pleased that not only is she here today to testify to the Committee, but I am so thankful that she has stepped into this very vital rule at ANTHC and for her leadership in the State.

So I look forward to the comments from all the witnesses today.

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Thank you, Chairman Schatz.

Enaa neenyo. [In the Koyukon Athabascan language, this means "welcome, or precious you came."]

The health impacts of the lack of sanitation and clean water infrastructure, in combination with overcrowded housing in so many Native communities remains an ongoing public health crisis.

Across the state of Alaska, 32 Alaska Native communities have no access to in-home running water or sewer. Without access to running water, Alaska Natives, especially the youth, experience higher rates of respiratory infections, including pneumonia, when compared to the overall U.S. population.

The pandemic has clearly underscored the need for these communities to have better water infrastructure. Simply washing your hands multiple times throughout the day to protect against the spread of COVID should not be a difficult task. But families in these communities are challenged with deciding whether the limited supply of water they receive should be used for other uses, such as cooking or drinking or using it for baby formula.

The need for better access to water, whether it is creating a water facility through the building of a washeteria, or individually constructing a pipe system to reach each household in a community, is well-documented. We have seen over the course of the pandemic the impact of sanitation emergencies that exacerbate the risk of COVID-19.

Earlier this year, in February, the Village of Tuluksak's washeteria and water treatment plant caught on fire. North of Bethel, Tuluksak is located along the Kuskokwim River and is not connected to the road system. Over a third of the community has tested positive for COVID-19. When their only source of clean water caught on fire, the village came together to fight the flames, literally hand carrying buckets of water from the nearby Kuskokwim River because their fire hose was stuck in the washeteria. Although the washeteria was completely lost to the fire, many came together to help bring clean water to the village and now the community waits for the rebuilding of their water facility.

The inaccessibility to water is an issue for many tribal communities across the country.

The latest Indian Health Service Sanitation Deficiency Levels report provided an inventory of projects ready to address existing sanitation deficiencies in American Indian and Alaska Native communities. These projects are provided funding and assistance for the construction of drinking water supply, sewage disposal, and solid waste disposal facilities. According to this report, there are 272 projects in the queue for the Alaska service area. This is the second highest for all 12 IHS service areas, just behind the Navajo service area. With hundreds of projects waiting to be approved, it shows that the need to address water infrastructure in an efficient way is needed for Native communities.

The Committee previously held a field oversight hearing that I chaired on St. Lawrence Island in the Native Village of Savoonga on August 25, 2018. During this field hearing on "Overcrowded Housing," we heard about the need for more water and sanitation infrastructure in the native village. Following the field hearing, committee staff and I were able to tour Savoonga and see what it is like to live in such severe overcrowded conditions, to see 21 people sharing a small three bedroom home. So while we are talking today about the need for water infrastructure, addressing pandemic vulnerabilities also requires addressing housing shortages and overcrowding, which I know is an issue for all of Indian country.

With that, I'm glad to welcome all of our witnesses today.

One of the witnesses today is Ms. Valerie Davidson, who can provide us with testimony that will be invaluable as the Senate begins to consider any infrastructure legislation. She is the Interim President of the Alaska Native Tribal Health Consortium. Ms. Davidson is Yup'ik and an enrolled tribal citizen of the Orutsararmiut Traditional Native Council, located in Bethel. She previously served as Lieutenant Governor of Alaska, Commissioner of the Alaska Department of Health and Social Services, and ANTHC's Senior Director of Legal and Intergovernmental Affairs. In her position as Interim President, Ms. Davidson oversees the administration of ANTHC's statewide health and social services that are offered to the Alaska Natives and American Indians living in Alaska.

Thank you, Ms. Davidson, for taking the time today to virtually testify before the committee.

With that Mr. Chairman, I turn back to you for continuation of the oversight hearing.

The CHAIRMAN. Senator Cantwell?

**STATEMENT OF HON. MARIA CANTWELL,  
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thanks, Mr. Chairman, and thanks for holding this important hearing. I would be remiss if I didn't thank the Vice Chair for her work on the Yakima Basin project, which is a Columbia Basin project that really helped in establishing management through collaboration. I see the Warm Springs on the agenda here today.

We have very complicated management issues as we face also changes to climate. I hope that we will hear from our witnesses today about what can facilitate better consensus-based management solutions, how we can work together, and certainly on this next infrastructure package how we can help improve the irrigation systems that are so integral in some of the tribes in Indian Country across the State of Washington.

Thank you.

The CHAIRMAN. Thank you, Senator Cantwell.

We will turn now to our witnesses. We have a really august group of witnesses from throughout the United States. We have the Honorable Raymond Tsumpti, Chairman of the Tribal Council of the Confederated Tribes of Warm Springs, Oregon; the Honorable Amelia Flores, Chairwoman, Colorado River Indian Tribes in Arizona; the Honorable Valerie Davidson, Interim President, Alaska Native Tribal Health Consortium in Alaska; and Mr. Jason John, Director of the Navajo Department of Water Resources in the Navajo Nation.

All are appearing virtually. I want to remind our witnesses that your full written testimony will be made part of the official hearing record. Please keep your statement to no more than five minutes, so that our members will have time for questions.

And we will start with the Honorable Amelia Flores, Chairwoman, Colorado River Indian Tribes, in Arizona. Ms. Flores?

**STATEMENT OF HON. AMELIA FLORES, CHAIRWOMAN,  
COLORADO RIVER INDIAN TRIBES**

Ms. FLORES. [Greeting in Native tongue.] Mr. Chairman, Madam Vice Chair, I want to begin by thanking the Committee for this wonderful opportunity. It is an honor to be here as the newly elected, and first, Chairwoman of the Colorado River Indian Tribes.

Our people are the people of the river. The river runs through us in the same way that it runs through our reservation in eastern California and western Arizona. It the cornerstone of our culture, and the foundation of our economy. It is essential to who we are as a people.

That is why I am honored to share how the United States can improve access to efficient water infrastructure. The first thing you need to know: you don't need to just throw money at the problem. It helps of course, but it is not the only thing holding tribes back.

CRIT has dealt with a number of legal and policy barriers that make efficient water infrastructure challenging. For our tribe, the most consequential barrier is the Indian Non-Intercourse Act. As a result of this law, CRIT cannot lease water without Congressional approval.

Congress has given that right to many tribes in their water settlements. But for those of us with decreed water rights, we still can't lease our water. If given that right, we would use our water to preserve the life of the river, and reinvest the proceeds to improve the Colorado River Irrigation Project, or CRIP.

CRIT also faces continuing challenges with the operation of the irrigation project. This project is owned by the Federal government and operated by the BIA. Routine project maintenance often goes unfinished because the BIA fails to charge water users enough to cover the basic costs of maintenance. The tribe asks the BIA year after year to raise these rates, essentially taxing ourselves, so that the work can get done. But we have had minimal success even as the maintenance backlog grows.

In the most extreme scenario, in 2019, the poor operational protocols at the project resulted in the BIA failing to divert more than 80,000 acre-feet of our water to the reservation. To put that in context, Mr. Chairman, that is only a little less than the City of Hilo



uses in an entire year. In other words, better management would result in our existing infrastructure lasting longer and being more efficient.

I am grateful that Congress has begun to focus on these small changes. In 2019, Congress updated the WaterSMART program so that it better aligns with tribal water rights. Since then, we have received three grants to improve our irrigation project. These grants will help conserve more than 3.2 billion gallons of water in the coming years.

As this Committee knows, significant change only comes with meaningful consultation. Fortunately, the water stakeholders in the Colorado River Basin are catching on to the importance of consulting with tribes. Under the Intra-Arizona agreement to implement the Drought Contingency Plan, our tribe and the Gila River Indian Community were able to provide Arizona water users with a bridge water supply for the DCP. We were the ones that brought solutions to the table.

The inverse is also true: when tribes are excluded, ill-informed decisions follow. The Bureau of Reclamation's 2007 Interim Guidelines were based on an understanding of non-tribal water, even though the tribes control 20 percent of the water rights from the Colorado River. As a result, on-river tribes have difficulty participating in programs established by the Guidelines.

As prolonged drought and climate change continue to impact our basin, it is my hope that this Committee will insist that Secretary Haaland and her staff engage tribal leaders as they rework these guidelines in the coming years.

Finally, I would be remiss not to mention the outstanding financial needs to support water infrastructure in Indian Country. The programmatic, annually appropriated funding for this work is not sufficient to provide access to clean water for all tribal nations. I know our new Senator, Mark Kelly, has made this a priority in his short time there in D.C., and I am grateful for his role in securing new funding for clean water projects in the American Relief Plan.

I also want to put vast needs for water project funding into context. If CRIT spent 100 percent of our funds from the American Relief Plan, it would only pay for 49 percent of the work needed on our irrigation project. And of course, there is no way that we can do that. We need to spend that funding on government services.

[Phrase in Native tongue.] I will conclude my remarks here. I appreciate the Committee's attention to water infrastructure and would be happy to answer any questions.

[The prepared statement of Ms. Flores follows:]

PREPARED STATEMENT OF HON. AMELIA FLORES, CHAIRWOMAN, COLORADO RIVER  
INDIAN TRIBES

Mr. Chairman, Madame Ranking Member, I want to begin by thanking the Committee for this wonderful opportunity. It is an honor to be here as the newly elected and the first Chairwoman of the Colorado River Indian Tribes.

As you know, I am Amelia Flores, Chairwoman of the Colorado River Indian Tribes. The Colorado River runs through our reservation in Eastern California and Western Arizona.

The Colorado River is the cornerstone of our culture, the foundation of our economy, and most fundamentally, essential to our life in the Mohave Desert. That is why I am honored to share our experiences and provide suggestions on how Con-

gress and the Administration may improve access to efficient water infrastructure for tribes.

The first thing you need to know: Congress does not need to simply throw money at the problem. Money helps of course. But it is not the only thing holding tribes back from harnessing the full potential of our water resources.

Congress and the Administration need to begin by examining the legal and policy barriers that exist as a result of excluding Tribal Governments from the decision-making processes.

We have dealt with a number of these barriers at CRIT in recent years.

CRIT is fortunate to have a substantial water right. Our water right was confirmed by the United States Supreme Court as a part of the *Arizona v. California* litigation. That makes our water right among the most secure in the western United States; but it also means it is among the least flexible.

As a result of the Indian Non-Intercourse Act, tribal water—which is a federal trust asset—cannot be leased without Congressional authorization.

Congress has given that right to many tribes in the context of water settlements. But those of us with decreed water rights, we still can't lease our water.

We can lease our land for agriculture, for commercial or industrial development. And we can lease land for resource use such as timber harvesting or mineral, oil or gas extraction. But we cannot lease our renewable water supply without Congressional approval.

A congressionally approved leasing program will provide needed revenue for governmental programs and will incentivize tribes to use water more efficiently. I know that our council would use water savings to help sustain and expand our habitat preserve along the Colorado River, and we would lease water to our neighbors who may soon be facing water restrictions due to the drought. I am certain other tribes will also find beneficial uses for their water that will provide economic benefits as well.

CRIT also faces continuing challenges with the operation of the Colorado River Irrigation Project (CRIP). This Project is owned by the federal government and operated by the BIA. It exclusively serves farmland on our reservation.

To say it mildly, the maintenance and operation of the Irrigation Project on our reservation leaves much to be desired.

Routine maintenance often goes unfinished because the BIA lacks the funds to complete the work. These are not funds appropriated by Congress; these are funds paid by our farmers for the operation and maintenance of the Project. We ask the BIA year after year to raise these rates—essentially taxing ourselves—so that the maintenance work can get done. We have only had minimal success—there is still more than \$75 million in deferred maintenance on this Project.

In the most extreme scenario, in 2019, the poor operational protocols at the Project resulted in the BIA failing to divert more than 80,000 acre-feet of our water to our reservation. To put that in context, Mr. Chairman, that is only a little less than the City of Hilo uses in an entire year. And Madame Vice Chair, that is about twice as much as is used in Juneau in an entire year.

In other words, better management of these systems would result in our existing infrastructure lasting longer and being more efficient.

I am grateful that Congress has begun to recognize that small changes in policy can result in meaningful change for tribal governments. In 2019, as a part of the John Dingell Conservation, Management and Recreation Act, updates to the Bureau of Reclamation's WaterSMART program finally took into account the unique nature of tribal water rights. As a result, our tribe has received three grants that help us improve water measurement and delivery and prevent seepage. These grants will help conserve more than 3.2 billion gallons of water in the coming years.

As this Committee knows, significant change only comes after meaningful consultation. Fortunately, I believe that the water stakeholders in the Colorado River Basin are catching on to the importance of consulting with tribes.

The Intra-Arizona agreement to implement the Drought Contingency Plan was an example of what happens when tribal governments are at the table. Under that agreement, the State of Arizona has to dramatically reduce its use of Colorado River water. The cuts are so dramatic that without short term bridge supplies, many entities would have been immediately put out of business.

Fortunately, our tribe and the Gila River Indian Community were able to provide Arizona water users with a bridge supply for the DCP. We were the ones that brought solutions to the table.

The inverse is also true: when tribes are excluded, ill-informed decisions follow. Consider the Bureau of Reclamation's 2007 Interim Guidelines that help govern the operations of the Colorado River.

The Guidelines were based on an understanding of non-tribal water rights and water use. As a result, tribes, which control more than 20 percent of the total water rights from the Colorado River, have difficulty participating in programs established by the 2007 Interim Guidelines.

As prolonged drought and climate change continue to impact our basin, tribes must be a part of the planning and program development process. In the coming years, this new Administration will need to negotiate new operational procedures to replace the 2007 Guidelines. It is my hope that this Committee will insist that Secretary Haaland and her staff engage tribal leaders at all stages of this work.

Finally, I would be remiss not to mention the outstanding financial needs to support water infrastructure in Indian Country.

The programmatic, annually appropriated funding for this work has not been sufficient to result in access to clean water for all tribal nations. I know our new Senator, Mark Kelly, has made this a priority in his short time here in D.C., and I am grateful for his role in securing new funding for clean water projects in the American Relief Plan.

I also want to put vast needs for water project funding into context: if CRIT spent 100 percent of the funds we are likely to receive from the ARP on a single water infrastructure project, it would only cover 49 percent of the project cost. And of course, there is no way that we can do that. We need to spend much of that funding to support our government services, which have faltered over the last year due to the pandemic.

The last program I want to mention is the IRRIGATE Fund, put forward by former Chairman John Barrasso. This fund helps the BIA address the extraordinary deferred maintenance needs on BIA irrigations projects. I appreciate that you, Ranking Member Murkowski, and former Chairman Tom Udall, provided funding for this program in the Appropriations Committee. That needs to continue in the coming years.

I will conclude my remarks here. I appreciate the Committee's attention to water infrastructure and would be happy to answer any questions from Committee members now, or provide written responses for the record in the days to come. Thank you again for this opportunity.

The CHAIRMAN. Thank you very much. And thank you for being exactly five minutes.

I will now introduce the Honorable Raymond Tsumpti, Chairman of the Tribal Council, Confederated Tribes of Warm Springs, Oregon.

**STATEMENT OF HON. RAYMOND TSUMPTI, CHAIRMAN,  
CONFEDERATED TRIBES OF WARM SPRINGS**

Mr. TSUMPTI. Thank you. My name is Raymond Tsumpti, Sr. I am currently Chairman, in my ninth term here.

Warm Springs is located in the central high desert of Oregon. The Tribe provides water to approximately 4,500 residents here. We are experiencing difficulties in providing water to our members. Aged water lines, antiquated pumps to get water from our towers, I think they call that the pressure relief valve failures.

All this leads to having the community boil water before they use it. That is pretty frequent lately, within the last two or three years.

We have three of four water delivery sites that require some major upgrades or replacement, especially with the pumps. We can't find parts for them.

It has been told here that to maintain these systems, it is going to run probably \$5 million to \$6 million to do that. And the overall fixture is estimated to run anywhere from \$40 million to \$50 million to do that.

My testimony does relate to high unemployment. That is the reason we don't have taxpayers to invest in our system.

So all in all, that is the short of it. I know we are running a little behind time here because of some technical difficulties. I will be open for any questions.

[The prepared statement of Mr. Tsumpti follows:]

PREPARED STATEMENT OF HON. RAYMOND TSUMPTI, CHAIRMAN, CONFEDERATED  
TRIBES OF WARM SPRINGS

Thank you for this opportunity to share the dire situation we are experiencing on the Warm Springs Reservation in Oregon. My name is Raymond Tsumpti and I serve as the Chairman of the Warm Springs Tribal Council and have served on Council for seven of the eight last terms since 1992.

The Warm Springs Reservation is the largest in Oregon at 640,000 acres. That's about 15 times larger than the District of Columbia. It spans from snow-capped Cascade mountains to the salmon-bearing Deschutes River—with forests and high desert between.

The Tribe provides water to approximately 4,500 people on reservation. For years, we have dealt with harmful and expensive obstacles in water storage, water delivery and water treatment. In 2019, the EPA issued an emergency order regarding our 40-year old water treatment facility. Later that summer, a primary waterline broke. For three months, residents were advised not to drink water from their taps without boiling it first.

There are many federal programs to assist tribes. But they have not individually or collectively been able to meet the magnitude of infrastructure challenges on our reservation. Three of our four water delivery systems require major upgrades or replacement. The Tribes are facing a minimum cost of \$5–6 million to simply maintain existing systems at status quo. To provide for future improvements to meet the growing population, the Tribes face a cost of \$40–50 million for water infrastructure.

Paying for the physical infrastructure is one problem. Maintaining it over the long-term is another. Even if we replaced every foot of water pipe and our treatment facility, we will be challenged to afford repairs and maintenance into the future.

Most of our tribal population lives in an arid portion of Oregon's high desert. The town of Warm Springs has the second highest incidence of poverty in Oregon. The reservation is suffering from dramatically high unemployment—which has exceeded 60 percent for many years. Our forest products mill closed, our resort closed and other tribal enterprises have been crippled by COVID. The pandemic has hit us hard at Warm Springs.

After some patchwork repair on our water system, water system failures returned in summer 2020 in the midst of COVID–19. Many of our families are crowded into small dwelling units. We have places on the reservation where people can't even wash their hands. The water infrastructure is literally crumbling. Some of the pipes are made of wood and clay. We regularly face “low pressure” or “no water” events that trigger boil-water notices.

With the extreme poverty on the reservation, we simply do not have a ratepayer base to invest in water infrastructure. We have worked with an array of federal and state agencies just to cobble together a “band-aid” approach to keeping clean water flowing in the near term.

We have worked with the Oregon congressional delegation to provide new authorities to help tribes like Warm Springs. They have introduced many bills, including Senator Wyden's “Western Tribal Water Infrastructure Act”—which has been referred to this Committee.

We know that Warm Springs is not alone facing these water challenges. We also know there must be a better way for Tribes to seek emergency assistance from the federal government to provide basic clean water to our members. Likewise, many tribes will need help maintaining and operating that infrastructure over time.

Again, thank you for holding today's hearing and jump-starting a federal dialogue about the ongoing water emergency facing tribes like Warm Springs all across the country.

The CHAIRMAN. Thank you very much, Mr. Chairman. We will do our questions after all the testifiers have provided testimony.

The next is the Honorable Valerie Davidson, Interim President of the Alaska Native Tribal Health Consortium.

**STATEMENT OF HON. VALERIE NURR'ARAALUK DAVIDSON,  
INTERIM PRESIDENT, ALASKA NATIVE TRIBAL HEALTH  
CONSORTIUM**

Ms. DAVIDSON. Good morning, Mr. Chair, and thank you, Mr. Chair and members of the Committee. My name is Valerie Nurr'araaluk Davidson, and I serve as interim president of the Alaska Native Tribal Health Consortium.

We are a statewide tribal health organization that serves all 229 federally recognized tribes here in Alaska, and all Alaska Native and American Indian people here. We also jointly manage the Alaska Native medical center along with Southcentral Foundation, which is the tertiary hospital that serves our statewide needs.

I have to commend this Committee for holding this hearing, so that we really have the opportunity to address the water infrastructure needs for Native communities, so that they can properly heard and really addressed in this 117th Congress.

My testimony today is going to focus on three aspects of sanitation infrastructure in Native communities. The first, the lack of sanitation infrastructure's impact on health; the second, the overall unmet sanitation need; and third, the impacts of climate change on that infrastructure. It will also offer some recommendations of how Congress and this Committee can help to address those issues.

The impact on health is really, really significant. We have known that all along. But the pandemic has really highlighted the long-standing inequities in available sanitation infrastructure and serves in many of our Alaska Native communities. We heard repeatedly during the pandemic that you can prevent COVID-19 by washing your hands, by cleaning and disinfecting surfaces and avoiding close contact with others.

Unfortunately, you can imagine how heartbreaking it is to be in a rural community in Alaska where you don't have running water, and you hear constantly that washing your hands and disinfecting is really critical and to know that you, as a parent or a person in that community can't do the most basic thing to keep your family safe, simply because you don't have running water.

Science also backs this up. The CDC did a study in August 2020 that showed that American Indian and Alaska Native people were among the highest risk groups for COVID-19, with an incidence rate that was 3.5 times than that of non-Hispanic whites.

Here in the State of Alaska, the State data indicates that Alaska Native and American Indian people are five times more likely to be hospitalized due to COVID-19, and were unfortunately four times more likely to die of COVID-19 than the rest of the population in Alaska.

We already know that adequate water and sanitation facilities help prevent skin and respiratory infections. In the CDC study that was done in the region that I am from shows a correlation between lower hospitalization rates for respiratory and skin infections. What we found is that infants in communities without adequate sanitation facilities are 11 times more likely to be hospitalized for respiratory infections and five times more likely to be hospitalized for skin infections.

It is really easy to get lost in those statistics, so let me put it another way. We expect that one out of every three of our infants

every year in one of those communities will be hospitalized simply because they don't have running water. Since our average village size is only about 300 to 350 people, that means that baby is going to be medevac'd to the nearest hospital.

My youngest daughter contracted RSV, or respiratory syncytial virus, when she was eight months old and she was hospitalized for nine days. She now has a compromised respiratory system. She has asthma, and she was hospitalized eight additional times for pneumonia by the time she was seven years old, which is unacceptable in our Country.

While improvements have been made over the last 40 years, over 40 percent of our rural Alaska Native homes still lack running water. And 32 of our almost 200 communities are still unserved. Many communities typically have a washeteria building. It is one building that combines water treatment, laundromat, toilets and showers that the entire community uses.

What that means from a practical perspective is that those communities haul their water from the washeteria in a five-gallon clean bucket, and we haul our raw sewage from our home in a different five-gallon bucket. Unfortunately, some of our communities continue to be unserved simply because of the high construction costs.

So what we are recommending is that we can do several things. The latest IHS sanitation deficiency system showed that we have an unidentified need, a need of \$3.3 billion in sanitation construction needs nationwide. But almost \$2 billion of that need is just in Alaska.

So we know that we desperately need at least \$1 billion in any future infrastructure bill for a sanitation facilities construction program. We should prioritize sanitation for these communities that are in the greatest need of sanitation facilities, those who have not yet been served. The IHS cost caps need to be waived for that new funding, so that unserved communities can access that sanitation funding.

Then finally, we need to make sure that we can do what we can to preserve the infrastructure that already exists in our Native communities.

I believe, Mr. Chair, that I may be over time, so I will stop there and be available for additional questions.

Thank you.

[The prepared statement of Ms. Davidson follows:]

PREPARED STATEMENT OF HON. VALERIE NURR'ARAALUK DAVIDSON, INTERIM  
PRESIDENT, ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

My name is Valerie Nurr'araaluk Davidson. I serve as the Interim President of the Alaska Native Tribal Health Consortium (ANTHC), a statewide tribal health organization that serves all 229 tribes and all Alaska Native and American Indian people in Alaska. ANTHC and Southcentral Foundation co-manage the Alaska Native Medical Center, the tertiary care hospital for all Alaska Native and American Indian people in the state.

I commend this Committee for holding this hearing, so that the water infrastructure needs for Native communities can be properly heard and addressed in this 117th Congress.

My testimony will focus on three aspects of sanitation infrastructure in Native communities: (1) the impact that lack of sanitation infrastructure has on health; (2)

the overall unmet sanitation need; and (3) the impacts of climate change. Additional supporting documents, referred to in my testimony, are attached for reference.

### **Impact on Health**

The lack of available sanitation infrastructure and services in many Alaska Native communities has long been lacking. The pandemic has highlighted these inequities.

Adequate sanitation infrastructure has never been more critical than it is now. As we've heard constantly, during this pandemic, COVID-19 can be prevented by hand washing, avoiding close contact with others, and cleaning/disinfecting surfaces. The lack of water service in many rural Alaska villages creates extreme challenges in practicing two of these three basic prevention techniques, and overcrowded housing in these communities makes the third prevention technique—avoiding close contact—equally challenging.

An August 2020 Centers for Disease Control and Prevention (CDC) study (see attachment #1)\* showed that Alaska Natives and American Indians were among the highest risk groups for COVID-19 with an incidence rate that is 3.5-times greater than that of non-Hispanic whites. Further, additional State of Alaska data indicate that Alaska Native and American Indian people are 5-times as likely to be hospitalized due to COVID-19 and have a mortality rate nearly 4-times that of the white population in Alaska.

The importance of adequate water and sewer to prevent skin and respiratory infections is very clear. A 2008 CDC study (see attachment #2)\* found that “the hospitalization rates in rural Alaska showed a typical dose-response group relation in which lower rates were related to progressively higher levels of in-home water service.” Showing that the more sanitation services that are available in Native communities, the lower hospitalizations are likely to be for respiratory and skin infections.

The study also found that infants in low-water service rural Alaska villages were 5-times more likely to be hospitalized for lower respiratory tract infections and 11-times more likely to be hospitalized for pneumonia compared to the general U.S. population. Many of these children are likely to have ongoing health problems due to these infections.

It's easy to get lost in these statistics, so let me put it another way: we expect that one out of every 3 infants will be hospitalized every year, due to lack of running water. Our average village size is 300–350 people, so that means that baby must be medevaced to the nearest hospital.

My youngest daughter contracted respiratory syncytial virus (RSV) when she was 8-months-old and was hospitalized for 9 days. She now has a compromised respiratory system, has asthma and was hospitalized 8 additional times for pneumonia by the time she was 7-years-old.

### **Sanitation Infrastructure Needs**

Dramatic improvements have been made to the sanitation infrastructure of rural Alaska over the past 40 years, but roughly 20 percent of rural Alaska Native homes still lack in-home piped water. Thirty-two of the 190 rural Alaska Native communities are still unserved, lacking access to in-home water and sewer. These communities typically have a washeteria building (a combination water treatment plant, laundromat, with toilets and showers) that the entire community uses. Most of these communities haul their water from the washeteria to their home in a 5-gallon bucket, and haul their sewage from their home in a different 5-gallon bucket.

Many communities are unserved due to the high construction costs. The Indian Health Service (IHS) has established cost caps per home that, when approached, both decreases the priority of the project in the scoring system and limits the amount of project funding available, effectively limiting the community from accessing in-home water and sanitation services. We recommend that the IHS eliminate cost caps for projects that would provide piped water and sewer for these unserved communities. Otherwise, these communities may never be served.

The COVID-19 pandemic highlights the need for community wide response and protection. The current IHS guidelines require contributions for projects that serve any non-Native households or other public buildings, such as a school. Without contributions, even communities with almost 100 percent Native populations could have essential infrastructure projects needlessly delayed or cancelled if a pro rata contribution cannot be made. This is contrary to the objectives of the program and will be a major barrier to serving these communities should funding become available through the IHS.

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\*The information referred to has been retained in the Committee files.

Once built, sustainable operation of rural water and sewer systems is critical to fully provide the public health benefit to the community. On a positive note, for the first time IHS has been provided funding specifically for technical assistance, training and guidance for sanitation operators and families. The \$3 million provided in the FY2021 appropriation will be very helpful in establishing culturally relevant training of operators and users of sanitation systems, but as this funding is distributed nationwide, it is likely additional funding will be needed.

The latest IHS Sanitation Deficiency System data identifies a need of nearly \$3 billion for sanitation construction projects in Indian Country, with \$1.8 billion of that need in Alaska. Despite this need, the IHS sanitation facilities construction appropriation for fiscal year 2021 was only \$196.6 million. IHS sanitation facilities construction funding needs to be greatly increased to address the inadequate sanitation infrastructure in Alaska Native and American Indian communities.

The expected upcoming infrastructure bill may be a once-in-a-generation opportunity to address the sanitation infrastructure needs in Indian Country. Fully funding the entire IHS sanitation need in the infrastructure bill is not an unreasonable ask given the importance of sanitation infrastructure in combating the current pandemic.

### **Impacts of Climate Change on Sanitation Infrastructure**

Throughout Alaska, environmental threats such as flooding, erosion, and permafrost thaw pose an imminent risk to tribal infrastructure, including homes, schools, clinics, and sanitation facilities. For example, in May of 2020, a family had to abandon their home in Chefornak, Alaska because thawing permafrost created a large pit beneath the structure, forcing the family to move in with relatives, resulting in 16 people sharing two small homes—without running water or flush toilets—all of this during the COVID-19 pandemic. In Shishmaref, Alaska, a November 2020 storm eroded between 30 to 80 feet of land along approximately 5,000 feet of coastline, causing \$6.5 million of damage to the only access road to the community landfill. These are just two of many similar, and increasing, impacts.

Despite the dire need, most federal programs and policies relevant to climate change adaptation inadvertently disadvantage Alaska's small tribal communities. Adequate funding to prevent the destruction of infrastructure is simply not accessible to these small and impoverished communities.

Statewide, approximately \$4.3 billion will be required to proactively mitigate damage to existing infrastructure in 144 environmentally threatened Alaska communities over the coming decades. An \$80 million annual funding gap exists over the next 10 years to mitigate acute infrastructure threats and to avoid a more expensive disaster response. We recommend that Congress increase support to the two federal programs proven to be most effective in supporting tribal communities in Alaska with climate change adaptation: (1) the Denali Commission Village Infrastructure Protection Program has been the single most effective financial mechanism for supporting environmentally threatened communities in Alaska. Support for the Denali Commission should be increased to support protect-in-place, managed retreat, and community-led relocation projects; and (2) the BIA Tribal Climate Resilience Program is currently the only national grant program readily accessible to our tribes for climate adaptation and resiliency planning (see attachment #3).<sup>\*</sup> The funding for this program should be significantly increased to adequately address the needs.

### **Conclusion**

It is clear that health equity in our Native communities can never be achieved without adequate sanitation facilities and access to basic water and sanitation services. To address this, I urge support for the inclusion of at least \$1 billion in any future infrastructure bill for the IHS Sanitation Facilities Construction program, and that such funding be prioritized to tribal communities that are in the greatest need of sanitation services. Additionally, IHS cost caps need to be waived for this new funding so that unserved communities can access the sanitation funding. Further, increased support for programs to mitigate the impacts of climate change in Native communities is crucial to addressing infrastructure in Native communities.

Thank you for the opportunity to provide testimony.

The CHAIRMAN. Thank you very much.

Now we have Mr. Jason John, Director of the Navajo Department of Water Resources, from the Navajo Nation.

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<sup>\*</sup>The information referred to has been retained in the Committee files.



**STATEMENT OF JASON JOHN, DIRECTOR, NAVAJO  
DEPARTMENT OF WATER RESOURCES, NAVAJO NATION**

Mr. JOHN. [Greeting in Native tongue.] Chairman and Committee members, thank you for this opportunity to discuss water infrastructure needs for the Navajo Nation. I am Jason John, Director of the Navajo Nation Department of Water Resources.

The Department is delegated with many responsibilities to assist and coordinate water resource development on the Navajo Nation. This includes working with appropriate Federal programs across Arizona, New Mexico, and Utah. While today's discussion will focus on the Navajo Nation's domestic and municipal water development needs, I have also shared information on agricultural, livestock, and environmental water needs.

The Navajo Nation is committed to improving the standard of living on the reservation. Access to land, water, and electricity are critical to a better quality of life. Water development is one of our highest priorities, as exemplified by the Navajo Nation investing over \$200 million of its own funds over the last several years. The collective goal should be to provide the necessary infrastructure so that thousands of families can live a better life.

In 2020, the Navajo Nation estimated almost \$4 billion in water-related development needs. A majority of the funding, over \$2.4 billion, is for critically needed domestic and municipal projects.

The need for water for a better quality of life is connected to the critical need for additional housing and electricity. About 19,000 homes on the Navajo Nation have relatives and family living in them who could have separate housing if housing were available and affordable.

Furthermore, due to the low income of many families, many existing homes lack the necessary plumbing for water, wastewater, and wiring for electricity which leads to a delay in providing critical water services once funding is available. Additional funding and program support are needed to construct additional homes and upgrade existing homes to receive water and electricity.

There is a need to obtain better information about the ongoing water-related sanitation deficiencies in the Navajo Nation. The Navajo Nation estimates a high percentage, 30 percent to 40 percent of homes without access to water. The Indian Health Service currently has staff shortages that hinder obtaining updated information quickly for the needed surveys, water and wastewater facilities on the Navajo Nation. The IHS currently has staff shortages that hinder obtaining updated information quickly for the needed surveys. Additional resources are needed to acquire updated information for the ongoing water-related sanitation deficiencies in the Navajo Nation.

There are challenges at every phase of water development in the Navajo Nation. There is a Federal nexus at almost every stage of domestic water development. There needs to be a review of and improvements to the current staffing levels, funding, and policies imposed upon programs that assist in the pre-construction and construction activities for water related projects.

Federal agencies with the expertise may need to dedicate resources to assist existing programs to efficiently review and permit infrastructure projects to expend funds allocated through the

CARES Act and the American Rescue Plan. Tribal programs involved in the review and permitting of water infrastructure need additional funding, staffing, and adequate workspace to assist water development efficiently.

Federal programs can assist the Navajo Nation with capacity building. This is especially important now with both the CARES Act and American Rescue Plan funding.

There is insufficient funding for domestic water infrastructure. There is more than half a billion dollars in current need for domestic water projects on the Navajo Nation. While the Indian Health Service has done good work to provide water with their limited funding and staffing, the needs far exceed what the program can accomplish without additional staffing and project funding. Adequate funding needs to be provided to get projects shovel ready so that more projects can be built in less time when funding becomes available.

The longer-term goal for the Navajo Nation is to provide water for population growth and economic development. The Navajo Nation has been working on analyzing the existing water systems to determine their short-term, mid-term, and long-term capital improvement plans to provide water for future population growth and economic development.

In some cases, groundwater has to be imported from neighboring communities or reliable surface water supplies such as the San Juan River. The need to import water results in additional time and cost to build water projects.

The Navajo Nation's long-term strategy includes additional access and use of the Colorado River supplies due to limited groundwater resources in many regions. The Navajo Nation participated in the Colorado River Basin Study through the Colorado River Basin Ten Tribes Partnership Tribal Water Study. Chapter 7 of that report described the challenges and opportunities to tribal water development.

Some of the potential actions from the study that I wanted to emphasize are as follows.

Prioritize the identification of legal and regulatory constraints to full use of tribal water. Repair, rehabilitate, or improve aging infrastructure. Work with BIA to develop programmatic right-of-way agreements to simplify obtaining rights-of-way for domestic, commercial, municipal, and industrial projects. Advocate for tribal waivers of the requirement for matching funds in Federal water-related funding programs. Conduct more detailed and comprehensive assessments of tribal water infrastructure demands to inform funding agencies better and promote increased funding through the Federal budget process.

There are far too many projects to discuss in detail today, but I invite members of this Committee to follow up with me about specific programs or projects. Overcoming the legacy of neglect and infrastructure deficits on the Navajo Nation will require an aggressive water development program.

I look forward to working with you. [Phrase in Native tongue.] Thank you.

[The prepared statement of Mr. John follows:]

PREPARED STATEMENT OF JASON JOHN, DIRECTOR, NAVAJO DEPARTMENT OF WATER  
RESOURCES, NAVAJO NATION

### Introduction

Chairman Schatz and Committee members, thank you for this opportunity to discuss water infrastructure needs for the Navajo Nation. I am Jason John, Director of the Navajo Nation Department of Water Resources. I have worked for the Navajo Nation for 20 years. The Navajo Department of Water Resources (NDWR) is delegated with many of the responsibilities to assist and coordinate water resources development on the Navajo Nation across the over 27,000 square miles. The assistance and coordination includes working with appropriate Navajo Nation, local, state, and federal programs across Arizona, New Mexico, and Utah. While today's discussion will focus on the Navajo Nation's domestic and municipal water development needs, I have also shared information on agricultural, livestock, and environmental water needs.

### Goal

The Navajo Nation is committed to improving the standard of living on the reservation. Access to land, water, and electricity for families, government programs, public institutions, and businesses are critical to a better quality of life. Recognizing that water is integral to human health and economic development, the Navajo Nation has placed water development as one of its highest needs. It is also one of its highest priorities, as exemplified by the Navajo Nation investing over \$200 million of its funds over the last several years. The collective should be to provide the necessary infrastructure so that thousands of families can live a better life.

### Need

In 2020, the Navajo Nation estimated almost \$4 billion in water-related development needs, as shown in Table 1. A majority of the funding, over \$2.4 billion, is for critically needed domestic and municipal projects (bolded in Table 1).

Table 1. Navajo Nation Water Development Needs

Category	Total
<b>Large Regional Municipal Water Supply Projects</b>	<b>\$ 632,000,000</b>
<b>Local Domestic and Municipal Water Infrastructure</b>	<b>\$ 1,806,057,000</b>
Livestock and Agriculture	\$ 682,410,000
<b>Service to Water Haulers</b>	<b>\$ 8,000,000</b>
Completion of Navajo Indian Irrigation Project	\$ 760,000,000
Address Water Storage Facilities	\$ 47,500,000
Drought Response and Mitigation	\$ 10,000,000
Floodplain delineations and management	\$ 10,000,000
Watershed Restoration Demonstration Projects	\$ 8,308,000
Navajo Nation Total:	\$ 3,964,275,000

Note: Table does not include funds needed for housing and electricity needs.

### Connection to Housing and Electricity Needs

The need for water for a better quality of life is connected to the critical need for additional housing and electricity. The 2010 census depicted approximately 40 percent of the 50,000 households across the Navajo Nation were multi-generational homes. About 19,000 homes on the Navajo Nation have relatives/family living in them who could have separate housing if housing were available and affordable. Furthermore, due to the low income of many families, many existing homes lack the necessary plumbing for water/wastewater and wiring for electricity which leads to a delay in providing critical water services once funding is available.

- Additional funding and program support are needed to construct additional homes and upgrade existing homes to receive water and electricity.

### Data for Domestic Water Needs

There is a need to obtain better information about the ongoing water-related sanitation deficiencies in the Navajo Nation. The Navajo Nation estimates a high percentage (30 percent to 40 percent) of homes without access to water. The Indian Health Service (IHS) is the only agency with data specific to this need and estimates a lower percentage. Under the provisions of the Indian Health Care Improvement Act, Sections 1632(g)(2) and (3), the IHS conducts an annual review of all the

sanitation deficiencies (water, sewer, solid waste) on the Navajo Nation in their Sanitation Deficiency System (SDS) database. In 2020, IHS estimated that between 7,000 to 7,500 homes lacked adequate water and wastewater facilities on the Navajo Nation. The IHS currently has staff shortages that hinder obtaining updated information quickly for the needed surveys. During the COVID-19 pandemic, the U.S. Public Health Service Commissioned Corps, in coordination with IHS, was able to facilitate technical staff from other agencies to assist in acquiring updated information on homes identified for cistern water systems.

- Additional resources are needed to acquire updated information for the ongoing water-related sanitation deficiencies in the Navajo Nation.

### **Development Challenges**

There are challenges at every phase of water development in the Navajo Nation. There is a federal nexus at almost every stage of domestic water development. The speed at which waterlines can be built to serve homes directly depends on the staffing levels and funding levels of federal and tribal programs involved in the planning, design, surveys, environmental permitting, cultural resource reviews, design reviews, and construction management.

- There needs to be a review of and improvements to the current staffing levels, funding, and policies imposed upon programs that assist in the pre-construction and construction activities for water-related projects.
- Federal agencies with the expertise may need to dedicate resources to assist existing programs to efficiently review and permit infrastructure projects to expend funds allocated through CARES Act and the American Rescue Plan.
- Tribal programs involved in the review and permitting of water infrastructure need additional funding, staffing, and adequate workspace to assist water development efficiently.
- Federal programs can assist the Navajo Nation with capacity building; this is especially important now with both the CARES Act and American Rescue Plan funding was and is to be distributed directly to tribal nations, respectively.

### **Domestic Water Development**

There is insufficient funding for domestic water infrastructure. IHS is the primary federal program constructing domestic water lines. According to IHS, there is more than a half-billion dollars in the current need for domestic water projects on the Navajo Nation. While the IHS has done good work to provide water with their limited funding and staffing, the needs far exceed what this program can accomplish without additional staffing and project funding.

- Adequate funding needs to be provided to get projects “shovel ready” so that more projects can be built in less time when funding becomes available.

### **Municipal Water Development**

The longer-term goal for the Navajo Nation is to provide water for population growth and economic development. , the domestic water program funding through the Indian Health Service authorized through P.L. 86-121 has limitations that do not allow sizing for long-term economic growth.

The Navajo Nation has been working on analyzing the existing water systems to determine their short-term (5–10 years), mid-term (20 years), and long-term (40 years) capital improvement plans to provide water for future population growth and economic development.

When analyzing many of the plans over the years, it became apparent that some communities do not have the local water supply to meet existing and future needs. In some cases, groundwater has to be imported from neighboring communities or reliable surface water supplies such as the San Juan River. The need to import water results in additional time and cost to build water projects. The Navajo Nation’s long-term strategy includes additional access and use of Colorado River supplies due to limited groundwater resources in many regions.

The Navajo Nation participated in the “Colorado River Basin Study through the Colorado River Basin Ten Tribes Partnership Tribal Water Study (2018)”. The report can be found at: [WaterStudy.pdf\(tentribespartnership.org\)](#). Chapter 7 of that report described the challenges and opportunities to tribal water development. Some of the potential actions from the study that I wanted to emphasize are as follows:

- Work with federal and state agencies to prioritize the identification of legal and regulatory constraints to full use of tribal water, and to design ways to over-

come constraints, and to broaden opportunities that enable Partnership Tribes to put their water to full beneficial and economic use

- Address statutory and regulatory prohibitions to interstate water management and use
- Develop and draft proposed policy changes addressing legal and regulatory constraints, as well as proposed legislation that allows for water management flexibility for Partnership Tribes
- Explore opportunities for federal agencies and Partnership Tribes to work together to develop the expertise, funding and/or resources for comprehensive water management planning and implementation
- Repair, rehabilitate, or improve aging infrastructure
- Construct/improve storage facilities to permit or enhance tribal access to storage
- Draft and propose appropriate legislation to authorize the interstate use of a tribe's reserved water rights
- Work with BIA to develop programmatic right-of-way agreements to simplify obtaining rights-of-way for domestic, commercial, municipal, and industrial projects
- Advocate for tribal waivers of the requirement for matching funds in federal water-related funding programs
- Create and improve relations with the adjacent communities and establish a forum for bringing tribal and other communities together to discuss issues of mutual concern
- Conduct more detailed and comprehensive assessments of tribal water infrastructure demands to inform funding agencies better and promote increased funding through the federal budget process
- Broaden the access to federal expertise to finance water infrastructure through specialized programs within the Department of Interior and within the Environmental Protection Agency

Many of the current federal programs cannot fully fund the planning and design of the regional water projects needed to provide the required water for long-term water use. The Navajo Nation, at times, is also penalized for being a large reservation when analyzing tribal finances concerning individual projects that serve small areas of the reservation. Nonetheless, the Navajo Nation continues to work with federal programs and other funding opportunities to meet its ongoing needs. We also appreciate dedicated federal agency staff who work closely with the Navajo Nation to provide technical assistance to meet the current and future water development needs.

#### **Agriculture Needs**

In 1986, the Soil Conservation Service (SCS) conducted an inventory of irrigation projects across the Navajo Nation. The SCS investigated 83 irrigation projects to determine existing conditions, consolidate resource data, and prioritize possible rehabilitation projects (SCS, 1986; Figure 2). During the 1980s, these small irrigation projects could irrigate approximately 55,000 acres of land (SCS, 1986). Due to insufficient staffing for management and funding for the operation, maintenance, and replacement, many of these systems have deteriorated and need funding. While most historic irrigation projects are not actively monitored, there are existing efforts to improve several irrigation systems, including the Fruitland, Hogback, Many Farms, and Wheatfield projects. The cost to conduct studies and repair some of the small irrigation projects is included in Table 1. The highest cost for agriculture in Table 1 is a proposed Lake Powell to Shonto raw water delivery project for irrigation at the cost of over \$600 million.

The Navajo Nation continues to advocate for the completion of the Navajo Indian Irrigation Project (NIIP). Approximately 70,000 acres of the planned 110,000 acres are developed. Blocks 9, 10, and 11 contain the remaining undeveloped acreage. The most recent estimated cost to complete NIIP is included in Table 1.

- Consultation is needed with the Bureau of Indian Affairs, U.S. Department of Agriculture, U.S. Bureau of Reclamation to begin discussions about rehabilitating and improving the small irrigation projects on the Navajo Nation.
- A plan is needed from the United States in consultation with the Navajo Nation and the Navajo Agricultural Products Industry to complete the construction of the Navajo Indian Irrigation Project,

### **Livestock Water and Infrastructure Needs**

The Navajo People take pride in their care of livestock as a way of life and to provide food and income for their families. The Navajo Nation Department of Agriculture estimates that livestock on the Navajo Nation requires approximately 1 to 2 million gallons per day or 1,000 to 2,000 acre-feet of water per year. The water for livestock comes primarily from surface water impoundments and livestock wells (Figure 15). NDWR maintains approximately 900 livestock wells throughout the Navajo Nation. There are over 4,000 stock ponds in the Navajo Nation, and a majority need sediment removal and rehabilitation. The cost to repair and provide additional water sources is included in Table 1.

- There is a need for technical assistance to conduct an overall assessment of the livestock water infrastructure needs and to develop a plan to fund, operate and maintain these systems.

### **Environmental**

The reservoirs on the Navajo Nation provide storage for irrigation water, livestock, wildlife, and recreation. There are more than 20 significant surface water reservoirs with a surface area greater than 200 acres. These reservoirs are either included in the NDWR Safety of Dams Program and/or are stocked with fish by the Navajo Department of Fish & Wildlife. The lakes and reservoirs have a combined storage capacity greater than 80,000 AF. Over \$47 million of water storage project needs are included in Table 1.

In addition, the Navajo Nation has been an active participant in the San Juan River Recovery Implementation Program (SJRIP) through the U.S. Fish & Wildlife Service and the Recommendations for San Juan River Operations through the U.S. Bureau of Reclamation to mitigate impacts to water users and the environment. We ask for continued support for these programs.

- There is a need for continued support to monitor and rehabilitate the existing reservoirs and plan, design, and construct new reservoirs.
- Continued support of the San Juan River Recovery Implementation Program and the Recommendations for San Juan River Operations is critical for the continued balanced use of water in the San Juan River.

### **Conclusion**

There are far too many projects to discuss in detail today, but I invite members of this Committee to follow up with me about specific programs or projects. Overcoming the legacy of neglect and infrastructure deficits on the Navajo Nation will require an aggressive water development program. I look forward to working with you. Thank you.

The CHAIRMAN. Thank you to all the testifiers.

Now we turn to Vice Chair Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman. Thank you, each of you, for your contributions here. It is clear that the need is out there across Indian Country, certainly in our State, as Valerie Davidson has outlined. This is not an issue of addressing outdated or inadequate infrastructure, it is the lack of any infrastructure whatsoever. Roughly 20 percent of rural Alaska Native homes still lack in-home pipe water. Thirty-two of the 190 rural Alaska communities are still unserved.

Again, as you have outlined, the health impacts that come, whether at the time of a pandemic, as we are currently, or when things are at a time when I think we accepted as somewhat normal.

But what is not normal is the fact that you have these health incidences that you have outlined, the high-risk rate for not only COVID, but as you have indicated, respiratory illnesses that have impacted you and our family personally. One out of every three infants hospitalized every year, and again, you think about those ongoing health care costs as each of these children progress through life. So the need is clear.

Ms. Davidson, I would like to direct my first questions to you. You have mentioned the high costs in Alaska. We understand that that comes with difficult geography and small populations. But you mentioned in your testimony this issue of the IHS cost caps needing to be waived for funding so that underserved communities can meet these sanitation needs.

You have also in your written testimony pointed out that oftentimes you will have water and sewer systems that are built, but that it is difficult to sustain them from an operation perspective because we haven't had the requisite training and guidance for sanitation operators.

If you could speak to some of the challenges that we face on the issue of the cost side, some of the other barriers that we might be able to address that could help facilitate greater buildout, then on the affordability. I have been to more than my share of communities that had anxiously awaited the buildout of water and sanitation systems in their community.

Then when they are finally constructed, after years of effort and many, many Federal dollars, the cost to hook up to the systems is almost prohibitive to the individuals. So you have a flush toilet sitting in your house, but you can't afford the services.

So if you could please address the issue of cost, just a little bit more directly to the Alaska specifics.

Ms. DAVIDSON. Thank you for the question, Madam Vice Chairman. I just wanted to take a moment to extend our appreciation in Alaska for your incredible leadership in bringing running water to our communities, which is making a huge difference.

What we are recommending is that the IHS cost caps really should be removed for first-service homes, which are still hauling their water in five-gallon buckets and disposing of their sewer in honey buckets, which by the way have nothing to do with honey. We know that just the incredible cost that is required, we have multiple competing demands for limited funding to construct new community-wide systems. Second, to upgrade old systems, which were mentioned at the beginning of the hearing, which are really at the end of their useful life. The third priority is to really protect existing infrastructure from erosion, flooding, permafrost, et cetera.

We also know that in Alaska, while we are different, we often talk about the fact that we are different, Alaska Native people want what every other family wants. We want our children to be healthy, we want them to be happy, we want them to be well educated and we want them to live in safe communities.

In order to accomplish those things, we have to do things differently. Here is an example. The limited funding issue is really compounded by the high cost of infrastructure due to our short construction season, where all materials need to be barged in. If you don't have your barge order in by February, you are not going to make that first May barge. Then the river freezes and the barge doesn't come. So all those transportation costs also create additional expense.

The construction of new piped community water and sewer systems is more than just putting in pipes. You need the entire supporting infrastructure that needs to be developed. So it is the water

source, it is treatment and storage, it is main lines and services, it is indoor plumbing, it is wastewater treatment and disposal.

So we really need a significant Federal investment of funding to be able to fully fund these services while also upgrading and protecting the infrastructure that is already in place.

One other thing is that the current IHS guidelines really require contributions for projects that serve any non-Native households or any public buildings, like a school. Without those contributions, even communities with almost 100 percent Native populations could have essential infrastructure projects really needlessly delayed or canceled if a pro-rata contribution can't be made, which is really contrary to the objectives of the program and would really be a major barrier in serving communities should funding become available to the IHS.

So unfortunately, what we have is rules in place that while may make sense in what my mother still calls the United States of America, they don't make sense in rural and remote communities like Alaska.

The other piece is that we also need to make sure that we have adequate resources to be able to maintain and sustain those operations. Because once you get that facility built, when it is 20 below or 40 below or 60 below, if you don't have the capacity to heat that water and make sure that those facilities don't freeze and the pipes don't freeze, you basically have lost your investment in that infrastructure.

So with that, I think I will say that is probably enough for now, it is a mouthful.

Senator MURKOWSKI. Thank you for that, and I think to your last point there about what happens when it gets cold, that is what I outlined in that article from the Anchorage Daily News, about what we are seeing in our smaller communities, that ongoing impact to them and their families not having access to water during the winter and during the pandemic.

Mr. Chairman, at some point in time, I would love to visit with you and other members of the Committee about a field trip in Alaska. We are doing some pioneering with some smaller systems, self-contained systems that ANTHC has been leading on with some in the environmental community to really address some of what Ms. Davidson has outlined. I think as we look to the challenges in other parts of the Country that have similar need, maybe some of the innovation that we are seeing up north can be replicated. I look forward to that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. I look forward to that conversation. We were just having a conversation on Monday with our staff about looking at some of this distributed technology for wastewater disposal in the home. There is certainly going to be a need for centralized infrastructure spending.

It may be that in certain rural communities that just providing a subsidy for something that works for an individual household may be a cheaper and more sustainable solution than what we are currently doing. All of this is to be considered in the context of consultation. But it is certainly worth pursuing, so thank you for that.

Senator Cortez Masto?



**STATEMENT OF HON. CATHERINE CORTEZ MASTO,  
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you, Mr. Chairman, and Ranking Member, thank you to the panelists. This is such an important conversation, and please include me, Ranking Member Murkowski, I would love to visit your State and take a look at the incredible work that is being done there.

Let me just say, I am from Nevada, and our tribal communities also are struggling with maintaining our aging water systems. I know that the Walker River Paiute Tribe in northern Nevada is one such community that I know would benefit from much-needed improvements.

Let me ask the panelists, are there certain things that we should be thinking about to support those communities in making the local water systems more sustainable and reliable? I have heard a conversation about money that needs to come in for upgrades, to protect the current infrastructure, to address the cost caps waivers. But when we are talking about sustainability and reliability of our water infrastructure, what else should we be thinking about as we work with tribes across the Country?

Let me just open it up to the panelists, and maybe starting with Mr. John.

Mr. JOHN. Thank you for the question.

We think it is really important for tribes to also develop economically. Most of the water systems on our reservation were built by the IHS with little to no capacity to economic development. If we are to be able to afford the delivery of water, we need businesses, commercial businesses, to become part of the plan. It is really hard to build businesses on the Navajo Nation with the lack of infrastructure.

So I think building the economy is critical to the affordability of water in the future. Thank you.

Senator CORTEZ MASTO. Thank you. Mr. John, let me just say, that is a great segue into a piece of legislation that I am going to be introducing to work with our tribes. I have been working with our tribes in the State of Nevada. Can you talk about that development of our tribal communities that are challenged with that ability? I know just in the State of Nevada, to develop an revenue base and utilize existing land and resources they have to develop their economy, there is more we can do at a central level to incentivize it to help them develop that. So I appreciate your comments.

To the other panelists, I am curious on what we can do to make our local water systems more sustainable and reliable.

Ms. DAVIDSON. This is Val Davidson from Alaska. I spoke a lot about developing the infrastructure. One of the things that helps us to sustain over the long term and make those systems more efficient is also making sure that we provide technical assistance training and guidance for operators who live in those communities who are really maintaining those systems every day. In our communities, those are our local people, those are our relatives, those are our friends and those are our neighbors.

When you can have a malfunctioning heater or water pump in a nice, warm community where it is like 30 degrees, in a community like ours, when it is 20 below, it can really freeze up the whole

system within two hours. So one of the things we really appreciate is that the IHS did put in some funding to be able to support the training of the maintenance workers, of the people who actually live in those communities who know those systems, who work with those folks to make sure that as those systems are being built that they also know the ins and outs of that systems. So if something does go wrong, that person is able to jump in and troubleshoot and, I might be dating myself, but they can get in there and kind of MacGyver things to be able to make that system work until a more long-term solution can be reached.

Senator CORTEZ MASTO. Thank you.

Let me add, my time is almost up, but thank you to the panelists. This is such an important conversation for us to have. I am hopeful the Committee will be able to work with our tribal communities across this Country to really address this challenge that we see. It is horrific that in this day and age we have individual communities that don't have either water or sewer infrastructure that accommodates their community members. We have to do more. We have a responsibility at the Federal level.

So I appreciate this conversation. Thank you.

The CHAIRMAN. Thank you very much.

For the record, on a bipartisan basis, the staff and members are aware of MacGyver.

[Laughter.]

The CHAIRMAN. My first question is for each member of the panel. This is a simple yes or no for the record. This is an important marker.

In your opinion, does the Federal trust responsibility include providing universal access to adequate water and wastewater services? I will start with Mr. Tsumpti.

Mr. TSUMPTI. I would say no.

The CHAIRMAN. Thank you very much. Ms. Flores?

Ms. FLORES. Yes.

The CHAIRMAN. Ms. Davidson?

Ms. DAVIDSON. Yes, the trust responsibility extends to providing sanitation facilities.

The CHAIRMAN. Thank you. Mr. John?

Mr. JOHN. Yes.

The CHAIRMAN. Thank you.

I just want to follow up with Mr. John. The IHS will not fund sanitation facility construction projects that it determines to be not feasible, often because these projects are in remote areas and only serve a small number of people. In other words, they don't pencil out on a per-person basis, and have difficulty in terms of the O&M budget.

Have folks really dug into the question that Senator Murkowski is asking, are there disruptive technologies available that can make the numbers work better? Should the Committee be providing resources or statutory authorization or at least a nudge to the agencies or to our friends in Indian Country to take a hard look at some of this technology? What are you thinking along these lines, Mr. John?

Mr. JOHN. Thank you for the question. It is going to be a long while before we reach the point of talking about infeasible projects.

There are over \$130 million worth of current projects that are considered feasible by IHS standards.

When you look at the details of the infeasible projects, you come to understand that they are not infeasible because they don't need water, those families need water. I think it is imperative that we seriously consider funding those projects. The infeasibility could be based on different criteria. A lot of it is just funding. A lot of the infeasibility of some projects can be overcome by just the funding alone. Thank you.

The CHAIRMAN. Thank you very much.

IHS, EPA, USDA, have all existing programs that provide funding for water and wastewater in Native communities. Mr. John, what other resources besides funding does the Navajo Nation need in order to take advantage of these programs?

Mr. JOHN. In our department, we almost call ourselves a fiscal agent for the Navajo Nation, because we have so many agreements with different Federal agencies, whether it is through the Army Corps of Engineers, the Bureau of Reclamation, the Bureau of Indian Affairs, the USDA. The list goes on and on. So we try to tackle the need with every resource that we have available.

But there are limitations across the board to meeting the need that is out there today, like I said, there is over a half a billion dollars in current need just to get water to homes. There is no current funding sources within any Federal agency that we can apply for to tackle that need.

Thank you.

The CHAIRMAN. Thank you very much.

A question about climate. Chairwoman Flores, how has climate change impacted CRITs water use? How is CRIT planning for a future with increased competition for a finite water supply?

Ms. FLORES. It impacted not per se the Colorado River Indian tribes; it has impacted the upper basin of the Colorado River. The water users in that area, with lack of snowfall and rain, it impacts the users. With our water rights, we have senior water rights for the Colorado River Indian Tribe, the largest and oldest. In a way it doesn't impact us, but it may in the future. But right now, it hasn't. Thank you for asking that question.

The CHAIRMAN. Senator Murkowski, for a final round.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I think this has been helpful to try to address some of what the regulatory barriers may be, some of the things we can look to. I think it was the Honorable Amelia Flores that mentioned, it is not just dollars, there are other issues that are impediments, and the regulatory side of it is one of them. We have certainly heard that from Ms. Davidson as well in terms of the other things we can do to assist with training and capacity building.

As the President has just recently signed into law the American Rescue Plan, there is funding for State, local and tribal, significant and substantial funding. In the American Rescue Plan, which is different than what we did with the CARES Act funding, there is direct reference to the ability for State, local, and tribes to use these funds for water and wastewater infrastructure.

Do any of our panelists have any comment about the use of those funds as perhaps an initial down payment on what it might take

to meet need? I know that at this point, nobody knows how much will be made available. But I am trying to assess here where this Committee, where this Congress, working with this Administration, can be most helpful in addressing the needs. We know that there are resources. Ms. Davidson used the figure of, we have to look to a billion dollars of need when it comes to infrastructure.

But if anyone would like to address what is coming available through the American Rescue Plan for purposes of water and wastewater infrastructure. I will throw that out to whomever might want to respond. Go ahead, Val.

Ms. DAVIDSON. Thank you, Madam Vice Chair.

We think it is a great start, really, really helpful. But again, we need really significant resources to be able to address this problem.

I want to go back to a question that was asked before about feasibility of programs. I really appreciate a fellow panelist talking about what is the definition of feasible and by what standards. I want to make sure that as we are implementing these programs with the resources that are made available, let's not, even unintentionally, let's not weaponizes terms like feasible or sustainable to perpetuate harm to the health of Alaska Native individuals and American Indian families. We really need these services. Our children are being hospitalized every year and are dying simply because we cannot keep them safe, because we don't have sanitation facilities.

I remember a few years ago, maybe 10 years ago by now, we hosted a former Secretary of the U.S. Department of Health and Human Services in Guiflook. We described what were third world sanitation facilities in our communities. He said afterwards, you know what, I have been to third world countries, and what they have is better than what we have right here in these United States of America. That is unacceptable.

So while definitely, the resources that were allocated under the American Rescue Plan, we appreciate that those are being opened for additional water and wastewater infrastructure. This might be a terrible pun, given what we are talking about, but it is just a drop in the honey bucket of the real needs that we know that exist in Native American communities. So we appreciate the effort because it is more than what we have now.

But it is time, it has been time to make a significant investment to just eliminate this problem once and for all. We are the greatest country in the world. But in order to achieve that, every community needs to be able to feel that in their homes. We have that opportunity to do that today.

Senator MURKOWSKI. Ms. Davidson, thank you for that. It is a reminder that while we have come far, we have so very far to go when it comes to meeting basic needs.

I will never, never forget a visit that I made to a small village some years ago, about 10 years ago now. They have since been able to get running water into some of their community buildings. But at the time there was none, including in their clinic. I was doing a tour of the clinic. I asked, how do you clean things? They showed me the Lysol wipes.

But not to get too graphic, but in these clinics, you do specific procedures, some gynecological procedures where you use medical

devices. The health aide said that she takes these home and boils them in water and then brings them back to the clinic.

When you don't have the ability even in a small clinic to be able to provide for basic sanitation, this should be shocking to everyone.

I look forward to the opportunity to share again with the Committee, several of the Committee staff have had an opportunity to go to Alaska. They had a field hearing out in Savoonga on St. Lawrence Isle. It was focused on housing, and housing infrastructure. But with housing also comes water, a toilet. I think what many saw was pretty shocking. We don't want to shock people; we want to help people.

Mr. Chairman, I really appreciate your focus on this and look forward to some good, strong, innovative ideas coming out of the Committee here.

The CHAIRMAN. Thank you very much.  
Senator Luján.

**STATEMENT OF HON. BEN RAY LUJÁN,  
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you so much, Chairman Schatz, and Vice Chair Murkowski, for holding this hearing today and to the witnesses for joining us.

In the U.S. House of Representatives, I was proud to introduce the New Mexico Navajo Water Settlement Technical Corrections Act to authorize the Navajo Gallup Water Supply project to serve thousands on and off tribal lands. The bill, which was signed into law back in 2009, provided \$1 billion to support a water delivery system for Navajo communities from Shiprock to Gallup. The project is a heightened focus due to COVID-19, especially around the Navajo Nation and surrounding communities.

Mr. John, what is the latest on this project? How many households will this water system serve once it is completed?

Mr. JOHN. Yes, thank you, Senator. Currently, the Cutter Lateral of this project is currently delivering water to communities in the eastern part of the Navajo Nation. It is in the testing phase, but it is the beginning of the delivery of water to hundreds and hundreds of homes that are currently already a part of existing public water systems. So we really thank everyone for their effort to try to get that project built.

The San Juan Lateral is still under construction but when that one is complete it will also tie into dozens of existing water systems and provide water to many other hundreds of homes along the San Juan Lateral. We think that this project is a good example of what needs to happen in other areas on the Navajo Nation, primarily the western part of Navajo. Families there are in dire need of a water supply in Arizona, as well as families in Utah near the San Juan River. We have projects being designed and planned for those areas.

So we want to thank you for the support of the Navajo Gallup. We have a lot of work to do to meet the needs of the many other Navajos on the Navajo Nation. Thank you.

Senator LUJÁN. I appreciate that, sir.

One thing I would also say is there is still a big need in New Mexico. This does not solve the challenges with the Navajo Nation in New Mexico. So more is needed, I agree.

According to the Navajo Nation Department of Water Resources, approximately 30 percent of the Navajo Nation does not have access to clean and reliable drinking water. Even though there is substantial investment in the CARES Act, the barriers that were put in place because of the timelines prevented the Navajo Nation from being able to move those projects forward without securing the rights away from the Bureau of Indian Affairs.

Now, I think we all know the urgency of getting these projects into the ground. I am very concerned that there are still delays that were created from the BIA in the previous Administration. Even an issue that I explained to the Vice Chair, we were able to secure FEMA funds for the bridge in Monolito that had collapsed. But the BIA would not approve the right-of-way back then and we lost the Federal money. The Navajo Nation and the local county government lost the money.

Mr. John, yes or now, do you believe that a shortened application process for BIA rights-of-way for public health infrastructure during national and tribal emergencies would help the Navajo Nation address its shortage of water infrastructure?

Mr. JOHN. Yes, I think that process would significantly help the construction of water systems. We also need help for the programs prior to BIA getting those rights-of-way applications. Thank you.

Senator LUJÁN. Mr. John, same question on wastewater and drinking water projects. Would this also help those projects get built?

Mr. JOHN. Yes.

Senator LUJÁN. Yes or no, do you believe that uniform rights-of-way application shared among the Bureau of Indian Affairs, U.S. Forests, Bureau of Reclamation, Army Corps of Engineers, and the Bureau of Land Management would expedite the application process for water infrastructure projects?

Mr. JOHN. Yes, I think if they were all working with the same rules, it would help expedite the process. Thank you.

Senator LUJÁN. And the last question, Mr. Chair, as my time runs out, is, I still have a concern associated with the census data with us having a good understanding of how many families currently do not have running water, electricity, or broadband. We are relying on non-profits.

The Indian Health Service and the Census Bureau and underfunded tribal utility departments still paint an incomplete picture of existing utility gaps on tribal lands. That is unacceptable. So I am hopeful we can get some responses to what data each of these departments used and are sharing with us to calculate the need, and that this is also an issue we can all work on together.

Thank you so very much. I appreciate your calling this important hearing.

The CHAIRMAN. Thank you, Senator Luján.

This is not in my briefing binder, but I want to make this point for all of us on this Committee. I am pretty sure we can get unanimity here. There is a lot of enthusiasm for broadband, and there is a lot of talk about broadband mapping, and there is a lot of talk

about investing in broadband infrastructure in extraordinary dollar amounts. Broadband is important. I am for broadband, I used to be the ranking member or the chair of the Telecom Subcommittee in Commerce. Don't get me wrong; we should be investing in broadband. It is like rural electrification in a new generation.

We still have communities in the United States of America that don't have safe drinking water. That is totally unacceptable. So first things first. If we are going to move forward on an infrastructure package together, especially for Native American communities, first things first. Water.

So if there are no other questions for our witnesses, members may also submit follow-up written questions for the record. The hearing record will be open for two weeks. I want to thank the witnesses for their time and testimony.

This hearing is adjourned.

[Whereupon, at 3:43 p.m., the hearing was adjourned.]





# A P P E N D I X

## PREPARED STATEMENT OF THE SOUTHERN UTE INDIAN TRIBE

The Southern Ute Indian Reservation—the homeland of the Southern Ute Indian Tribe's 1500-plus members—consists of approximately 700,000 acres of land located in arid, southwestern Colorado in the Four Corners Region of the United States. Ute elders will tell you that to their people, water has always been the provider; water is life. Traditionally, the Ute people were hunters and gatherers, camping and traveling along the streams and rivers of the West to harvest game and edible plants. That was before Federal government interference. The government's obsession with turning Indians into farmers forced upon the Tribe a new, more tenuous relationship with water. As communally-held tribal land was parceled into allotments for individual Indians to farm, it became a necessity to force the flow of water to areas that typically only received moisture when it rained. Rainfall is a rare occurrence on the Reservation, which annually receives an average of 8–20 inches of precipitation. The United States knew this. As early as 1880, during the allotment debate, Indian Agent Henry Page noted in his annual report that, "land on the Southern Ute Reservation could not be cultivated without the use of irrigation ditches." Engineering and construction of irrigation ditches was soon a major component of what was then called the Indian Service's responsibilities at the turn of the century. Local Indian Agents recognized the importance of securing the necessary water rights for all tribal allotments, and pressed officials in Washington, D.C. to act quickly, but as Easterners, the officials did not appreciate the value of water in the West and the need for urgent action.

The first irrigation ditches to serve Southern Ute lands were built in the mid-1880s, and by 1888 almost 600 acres were in cultivation along the Pine River. Those ditches comprise a large part of what we now call the Pine River Indian Irrigation Project (PRIIP). The PRIIP is still owned and operated by the Bureau of Indian Affairs (BIA). Based on its boundaries and operating agreements, PRIIP should be providing water to approximately 12,000 acres and nearly 400 individual users, including approximately 100 non-Indians and the Town of Ignacio, but due to extreme deterioration of its infrastructure, it falls far short of that goal. An assessment of the PRIIP conducted by the GAO in 2006 identified a maintenance backlog of over \$20 million, and that estimate was confirmed in a 2008 study commissioned by the BIA. A different assessment performed in 2000 by the BIA's Office of Trust Responsibility found that the cost to completely rehabilitate the system, including upgrading equipment and other non-structural items, would be closer to \$60 million. Though the PRIIP is Federally-owned and operated, the Tribe is mid-way through a 5-year program to rehabilitate portions of the PRIIP using \$4 million of tribal funding and just completed an emergency repair on the project using \$880,000 of tribal funding.

The deteriorated condition of the PRIIP means that many of its users are unable to access and use water for agricultural irrigation. 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. This ongoing lack of water delivery to both Indian and non-Indian lands presents a significant barrier to agricultural economic development for both the Tribe and the local community. The following points illustrate the system's deplorable condition:

- Only an estimated 15 percent of the Project's 175 miles of canals can be considered in good condition;
- Some of the Project's major diversion structures date to the 1930s, with no major rehabilitation or improvements since the early 1960s;
- An estimated 40 percent of the project's irrigable acreage is not being irrigated, and a significant amount of that simply cannot be irrigated given the current state of the Project;

- The Project’s largest canal, serving over 4,500 irrigable acres of Indian and non-Indian land, has breached three times;
- The aforementioned canal has multiple, large, antiquated flumes in danger of failing;
- Dozens of smaller irrigation structures constructed pre-1920s have collapsed and have simply been abandoned;
- Ditches have been abandoned and lands that were previously irrigated have become derelict, requiring costly rehabilitation; and
- Erosion has created miles of incised channels and ditches where elevated headgates no longer allow for the diversion of water to lands that historically were irrigated.
- Neglect of operation and maintenance roads has made access to many structures and sections of ditch either impossible or unsafe.

Funding to address some of the PRIIP’s needs was authorized in the *Water Infrastructure Improvements for the Nation Act* (“WIIN Act,” Pub. L. No. 114–322). Enacted in 2016, the WIIN Act establishes the Indian Irrigation Fund (the Fund) in the Department of the Treasury to address the deferred maintenance, repair, and replacement needs of various Indian irrigation projects<sup>1</sup> in the western United States. The WIIN Act came as a great relief to Southern Ute and other tribes in the West that had been asking for decades for help with decaying Federal irrigation projects, but repairs under the WIIN Act met an unexpected delay. While the WIIN Act authorized funding for this critical purpose, the actual appropriations have fallen far short.

The Act directs the Secretary of the Treasury to deposit \$35 million annually through fiscal year 2028 into the Fund, with such sums plus accrued interest to be transferred to the Secretary of the Interior for distribution by the Bureau of Indian Affairs. However, since its inception, Congress has only appropriated \$10 million per year for the Fund—less than one-third of the \$35 million authorized. Not only does the level of appropriation fall far short of the demonstrated need, continued delay simply adds to future costs as deterioration of failing systems continues.

In conclusion, the Southern Ute Indian Tribe—on behalf of the Tribe’s farmers, local non-Indian irrigators, and tribal irrigators across the parched West—respectfully asks the Administration to request the full \$35 million authorized per year and urges Congress to grant the budget request.

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PREPARED STATEMENT OF THE UTE INDIAN TRIBE OF THE UINTAH AND OURAY  
RESERVATION

### **I. Introduction**

Chairman Schatz and Members of the Senate Committee on Indian Affairs, the Ute Indian Tribe of the Uintah and Ouray Reservation appreciates the opportunity to testify on our water infrastructure needs. Your March 24, 2021, oversight hearing entitled “Build Back Better: Water Infrastructure Needs for Native Communities” addressed some of the most important issues on our Reservation, specifically, our long-standing infrastructure needs related to tribal drinking water systems and water storage. We appreciate your consideration of our testimony and ask that it be made part of the hearing record.

In brief, providing and improving the drinking water systems, water storage and other water infrastructure needed by Indian tribes should be a national emergency. Like many tribes, we lack much of the basic water infrastructure needed to provide for our members, and the infrastructure we do have is in need of serious repair and upgrades. The United States has both a treaty and a trust responsibility to provide the funding and technical support for tribes to develop and run these systems. Yet, the few federal programs supporting tribal water and sanitation infrastructures are so underfunded that there is a decades long backlog.

Part of the problem may be that there is no true lead agency for tribal water infrastructure. Most of this funding comes from a portion of the State and Tribal Clean Water Revolving Fund that the Environmental Protection Agency oversees. But, then this funding is utilized by a sanitation and waste water program within the Indian Health Service to fund and support not just sanitation, but also drinking

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<sup>1</sup>To be eligible for these funds, the project must be (1) owned by the Federal government, (2) managed and operated by the BIA (including projects managed, operated or maintained under contract or compact pursuant to the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450, et seq.) and (3) have BIA-documented deferred maintenance.

water systems. Meanwhile, the Bureau of Indian Affairs oversees some irrigation projects and dam safety. The United States cannot fulfill its obligations to provide reliable drinking water systems and other water infrastructure in Indian Country with programs and funding spread across so many different agencies.

## **II. Water Resources Management is Vital to Health and Security on our Reservation**

The Ute Indian Tribe consists of three bands: Uintah, White River, and Uncompahgre Bands. Our ancestral homelands stretch from the Colorado Front Range to the Wasatch Front in Utah—from present-day Denver to Salt Lake City. Through a series of treaties and agreements we agreed to reside and establish a homeland on our Uintah and Ouray Reservation (Reservation) in northeastern Utah. Our 4.5-million-acre Reservation is the second largest in the United States. Our Reservation is approximately 150 miles east of Salt Lake City.

The delivery of safe drinking water to our members is one of the highest priorities for the Ute Indian Tribe. The vast majority of our members live on our Uintah and Ouray Reservation (Reservation) and are provided water for domestic, commercial, municipal, and industrial (DCMI) purposes by our Ute Tribal Water System (UTWS). Based on 2005 data, our UTWS provides water to upwards of 3,850 users between the system and its external connections. The COVID-19 pandemic and isolation of our elders and members in their homes has highlighted the vital need of our ability to provide clean drinking water across our Reservation.

Despite the vital importance of our UTWS, the last time the system was comprehensively rehabilitated was in 1981, and the last sanitary system survey of our UTWS occurred in 1982. The United States and Congress must do better. We ceded millions of acres of lands and resources in treaties and agreements with the United States. In return, the United States promised to secure our homeland and provide programs and services to the Tribe. It is time to make good on these promises and provide adequate funding for tribal water systems and other infrastructure needs.

As you may know, the State of Utah is recognized as the second most arid State in the country. This includes our Reservation and requires careful and considered management of our water resources for drinking, irrigation, and all of life. In his 1905 Annual Report, the Commissioner of Indian Affairs described the conditions on our Reservation and bluntly stated, “The future of these Indians depends upon [water]. . .for without water their lands are valueless, and starvation or extermination will be their fate.”

Our Reservation lies entirely within the drainage of the Upper Colorado River Basin. We have a multitude of streams flowing through the Reservation, including: the Duchesne River and its tributaries, Rock Creek, Lake Fork River, Yellowstone River, Uinta River, and Whiterocks River, among the rivers that flow south from the Uinta Mountains through the western part of the Reservation to the Green River, which together with its tributaries, including the White River, flows through the eastern part of the Reservation then on to the mainstem of the Colorado River.

As a part of our Reservation, we maintain Indian-reserved water rights by diversion of 549,685 acre-feet per year in the Upper Colorado River Basin. Priorities for these rights are dated to 1861 for all historically and practicably irrigable lands of the Uintah Valley portion of the Reservation, including municipal and industrial water rights, and 1882 for all lands served on the Uncompahgre portion of the Reservation, through which the Green River and its tributaries flow and border. We own the highest priority water right to natural flows from all rivers within the exterior boundaries of the Reservation.

In 1916, the United States initiated litigation in federal court to protect our reserved water rights and enjoin various private irrigation companies from interfering with our tribal members’ use of our waters. A portion of our Indian reserved water rights was recognized through this successful litigation and resulted in the issuance of two federal decrees in 1923 for our reserved water rights on the Lake Fork and Uintah Rivers and their territories, where the majority of tribal members reside. Agreement on the remaining portion of our Indian water rights was reached by agreement with the State and the Federal governments in 1965 when we agreed to not develop some of our Indian water rights so that the State could proceed to construct and complete the Central Utah Project.

The Central Utah Project is a massive federal project that diverts and stores water from our region and our Reservation to provide water to the Wasatch Front, including Salt Lake City and Provo. As a part of this Project, the government promised to construct a water storage facility in the Uintah Basin that would provide the Tribe with the necessary water resources to develop and use our Reserved Water Rights on our Reservation. This storage has still not been built.

### III. Investments Needed for Safe Drinking Water Infrastructure

The delivery of safe drinking water to our Tribal members is of the highest priority for the Tribe. The vast majority of our members live on the Uintah and Ouray Reservation and are provided with water for domestic, commercial, municipal, and industrial (DCMI) purposes by our Ute Tribal Water System (UTWS). Our UTWS service area covers roughly 175 square miles, including the towns of Whiterocks, Fort Duchesne, Randlett, Ouray, and other rural areas. We also operate a high school for our tribal members in Fort Duchesne, Utah. Through external connections, our UTWS is also the sole water supplier to the Ballard Water Improvement District, the Ouray Park Improvement District, and the Independence region of the Johnson Water Improvement District.

Our UTWS diverts and treats water from Whiterocks and Uria Heap Springs, which is delivered by gravity through nearly 60 miles of pipelines and numerous valves, hydrants, and water meters. Each spring subsystem on the UTWS has its own water treatment facility. Whiterocks typically takes 100 gpm through treatment, while Uria Heap takes about 700 gpm through its system. The Whiterocks Springs subsystem serves 115 connections with an average daily demand of 63 gpm. Uria Heap has 815 connections and an average daily demand of 700 gpm.

In 2010, we asked an engineering firm to evaluate the conditions of the water collection systems at Whiterocks River and Uria Heap Springs. They found that multiple improvements for environmental health and better water management within our UTWS were needed. Deteriorated conditions included vegetation growth and poor surface drainage in the spring areas, root intrusion, sediments, and cracking in collection pipes, a lack of water meters in the system, a need for increased water quality monitoring in the system, and unmonitored spillage of untreated spring water into local canals. Though customer water meters have since been installed and a new Uria Heap treatment plant was built, not all recommended improvements have been fully implemented.

In 2014, another engineering firm observed or were made aware of the following concerns related to our UTWS:

- Continued poor surface drainage and vegetation in spring collection fields;
- Insufficient fencing around springs that could allow livestock to contaminate water sources;
- Rusted, leaking, or overflowing water storage tanks;
- Freezing or burst water pipes in the winter throughout the system;
- Vandalism of UTWS structures; and
- A strong need for a hydraulic model to understand water flow within the system.

Despite these issues and our requests for support, the Indian Health Service (IHS) has not been able to fund and install spillage meters needed at both springs for several years, and individual water meters are not read; as a result, both users and external connections pay only a flat monthly water rate regardless of use. Although we appreciate the technical support that IHS has been able to provide, most of its limited infrastructure or construction funding goes towards drilling domestic water wells for individual tribal members. As a result, our UTWS has continued to suffer from a lack of maintenance, rehabilitation, and expansion funding.

Due to chronic underfunding for our UTWS, we have had difficulty maintaining, providing, and ensuring that our tribal members have access to safe drinking water. Since 2018, we have made a concerted effort to improve our internal monitoring and auditing procedures related to the quality of the water delivered by our UTWS. However, the lack of consistent and available funding sources to rehabilitate, improve, and expand access to our UTWS remains a significant and serious issue for the majority of our tribal members. And, some of our tribal members must rely on relatively shallow individual wells or developed springs for their water supply.

### IV. Investments Needed for Water Storage

The need for water storage on our Reservation has been clearly and repeatedly documented for over 100 years. Indeed, it is well known that irrigation and other related tribal water projects cannot be successful in an arid environment without water storage infrastructure. The Federal government has acknowledged, on many documented occasions, its obligation to manage water projects through storage facilities, yet the Tribe continues to face water storage deficits on a regular basis.

It is unbelievable that our Reservation homelands were established in this arid region and we still lack a water storage facility to support our municipal, irrigation and water development needs. Meanwhile, the non-Indian residents of Utah are served by the Central Utah Project—one of the largest water storage and delivery

projects in the United States. Because of these documented water shortages, the Tribe has sought to develop viable, environmentally sound storage facility options that will regulate the flows of Reservation streams and provide an ample and dependable water supply for the Tribe. Storage, combined with natural flow, is the only way the Tribe can fully develop its irrigation system, provide for our members, and put our reserved water rights to use. We ask that the Federal government make good on its commitment to provide the water infrastructure promised and needed for our homelands.

The ability to store water is vital to our Uintah Indian Irrigation Project (Project). The Project is one of 16 Indian Irrigation Projects that the Bureau of Indian Affairs (BIA) is directed to manage in support of the Federal government's trust responsibilities and to create economic development opportunities on our Reservation through agriculture. Our water users pay annual operations and maintenance fees, but chronic underfunding of the Project has resulted in layers of problems. Current problems are well documented and include decades of deferred maintenance and the need for repair and replacement of diversion structures, canals, laterals, and ditches to bring the deteriorated infrastructure up to current standards. And, as noted, the Project lacks the basic storage that irrigation systems rely on to regulate the natural flows of the rivers and the rehabilitation and betterment of our Project.

We ask that the Biden Administration honor and fulfill the United States' treaty and trust responsibilities to support our critical need for water storage infrastructure. Storage infrastructure is needed to support and provide for the Tribe's Reservation homelands in Utah. Actions are needed to improve BIA's management of our water irrigation projects and to secure funding that will enable us to get the full economic benefit of our Indian reserved water rights.

#### **V. Additional Impacts from COVID-19 Pandemic and Specific Funding Needed**

The COVID-19 pandemic has highlighted and exacerbated our need to provide Tribal members access to safe and reliable drinking water—which is paramount in maintaining proper hygiene and staying healthy. IHS has already documented that families with access to reliable safe drinking water and sewage systems require appreciably fewer medical services and place fewer demands on the IHS and tribal primary health care delivery system. For every dollar IHS spends on sanitation facilities to serve eligible existing homes, at least a twentyfold return in health benefits is achieved.

Despite these clear health benefits and the additional impacts from the COVID-19 pandemic, we are still waiting for Congress to provide the funding levels for needed improvements to our UTWS and tribal water systems throughout Indian Country. Congress knows this. We all know this. The shortfalls in IHS funding are well-known. This is not only a funding shortfall, but also a failure to fulfill the United States' treaty and trust responsibilities.

The American Recovery Plan Act will provide some of the funding needed but still will only scratch the surface. And, more importantly, we are still in the middle of a pandemic and have many demands for the funding provided. Do we use funding in the Act to invest in water infrastructure, support tribal members and businesses still suffering from the economic slowdown, or invest in broadband infrastructure to support the education of our youth? Indian Country needs the level of funding provided in the Act year after year just to support water infrastructure.

While Congress fails to meet its obligations, we are still working hard to provide our members with safe and clean drinking water supplies. We recently investigated and identified (1) the need to develop groundwater wells and associated facilities to provide culinary/domestic water to an area of our delivery system known as the Farm Loop Road area located north of our Whiterocks Tribal community; and (2) the need for a supplemental supply to the existing Whiterocks and Uria Heaps water systems. Our residents on Farm Loop Road are representative of those who experience poor water quality from their domestic wells and seasonal water shortages.

We conducted project feasibility studies for these two projects, as well as their economic feasibility. Not surprisingly, the cost per residence in the targeted isolated, rural Reservation area can run as high as \$132,000 per residence for groundwater development. When the residential improvements are combined with the development of the supplemental water supply project, we can bring our costs down to \$12,609 per connection. However, that still leaves us with an overall cost to improve access and make water supply improvements of \$12,500,000—in just one area of our UTWS on our large Reservation.

Some sources of funding are specifically limited to loans to eligible water systems. One example is the EPA Drinking Water State Revolving Loan Fund which has a

2 percent Drinking Water Infrastructure Tribal Set-Aside. In addition, this funding is not available where there is no existing water system as in the example above for our Farm Loop Road residential area.

We also run into problems because a project's cost efficiency is often used by funding sources, including IHS, as a measure of a project's economic feasibility. If the measure of the cost per household is used as a measure for tribal funding, the highest cost per household served in Utah is \$40,500. As described above, the estimated cost for some of our very rural, reservation tribal households can be as high as \$132,000 per residence for groundwater development. Yet, the IHS Phoenix Area, which includes our Reservation, has a cap on the cost for a system identified as "deficient" at about \$58,000 per Tribal home served. IHS told the Tribe that if we exceed their cap then the project cannot be funded. As a result, the Tribe receives \$0 benefit from IHS, even though the Tribe offered to make up the difference. None of these caps or cost limitations are consistent with the Federal government's trust responsibilities.

Some other sources of funding, such as the U.S. Bureau of Reclamation WaterSMART grants—Water and Energy Efficiency Grants, require a 50/50 cost share, with Tribes located in the western states eligible for funding of Tribal projects that conserve water and/or provide hydropower development. Many Tribes are not able to fund the 50 percent share of the costs under this program. And, more importantly, this cost share is not consistent with the United States' debts owed to Indian Tribes and the trust responsibility.

A final example of existing funding sources is the Water Infrastructure Improvements for the Nation Act—Assistance for Small and Disadvantaged Communities Drinking Water Grant. The grants target public water systems in small and disadvantaged communities to meet Safe Drinking Water Act requirements. However, with a 2 percent tribal allotment under the program funding, there is only a total allotment of \$875,000 for tribes across the United States. States, cities and towns covering much smaller areas have higher water infrastructure budgets than this.

## VI. Conclusion

Improvements to our Reservation water infrastructure can save lives and increase the life expectancy of our Tribal members. The United States and Congress have obligations based on treaties, agreements, and the Federal government's trust responsibility to meet these basic needs. Like many Tribes, the Ute Indian Tribe needs Congress to provide significant funding to finally meet these obligations, particularly during the global pandemic we all face today.

Significant investments in drinking water and storage infrastructure will help to ensure that our water system meets water quality standards and would also provide a vital economic boost for the economy in response to the COVID-19 pandemic. Investments in water storage infrastructure will help ensure that our irrigation project needs will be met. The Ute Indian Tribe has done the feasibility studies and we know what is needed. Even IHS knows what is needed. We need to modernize our Tribal water delivery system, firm up water supplies to our Reservation Tribal residents, and ensure quality water supplies are available that satisfy health-based drinking water standards. It is time for Congress to act on these needs.

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### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE ROUNDS TO HON. VALERIE NURR'ARAALUK DAVIDSON

*Question.* I am curious to get the panel's perspective on the Corps of Engineers' Tribal Partnership Program, which has been successfully used in South Dakota. I am interested in whether this is a program you have used and, if so, what your views are on the effectiveness and utility of this program—and the Bureau of Reclamation's Native American Affairs Technical Assistance Program?

*Answer.* It has been very challenging to engage the Corps of Engineers through the Tribal Partnership Program in Alaska. Although the Corps can support Tribes with up to \$200,000 to assist in planning projects, at no cost to the Tribe, we have seen little engagement from USACE Alaska District staff to support Tribes in this effort.

Since 2018, we have sent 13 community requests to their Planning Assistance to the State's Program, but only two projects were supported. One project stalled at the agreement stage because of lack of community engagement funding. Generally, 35 percent and 50 percent local cost-share requirements exclude most of our communities from other Corps programs that were formerly successful when there was no cost-share to the community.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HOEVEN TO  
HON. VALERIE NURR'ARAALUK DAVIDSON

*Question.* How can we better assist Tribes with accessing and navigating federal programs?

*Answer.* There are many potential ways to improve existing programs and the ability of Tribes to successfully access and navigate these opportunities.

Many federal programs do not fund mitigation measures, measures which are increasingly needed as climate change is dramatically impacting our Alaska Native communities and the infrastructure in those communities. As more Tribes in Alaska are facing threats to infrastructure from a changing environment, some weaknesses in the system are being exposed. For example, the existing IHS Sanitation Deficiency System (SDS) determines sanitation project eligibility based on a defined set of deficiency levels. When the deficiency levels were created, they simply did not conceive of any deficiencies based on environmental threats. Now we have an ever increasing number of acute threats to our existing systems from flooding, erosion, and permafrost thaw.

These impending impacts to sanitation systems are not considered deficiencies, rendering these needs ineligible for funding until after the damage has occurred. Mitigating these threats prior to damage would eliminate system interruptions and subsequent public health impacts, as well as protect the existing federal investment. The IHS is working with our team to help track these needs in the existing sanitation facilities database, but until the deficiency definitions are updated, these needs will remain ineligible for funding consideration.

When it comes to mitigation of and response to environmental threats and climate change, the dynamic described above is consistent within all other federal programs, as these programs do not account for a significant need to address environmental threats to infrastructure. Federal agencies are ill-equipped to provide the technical assistance and funding support needed to address these issues. Tribes are left to independently piece together ad hoc responses to impending threats via myriad disparate federal, state, and philanthropic programs.

Conventional wisdom has long since determined that a more coordinated governmental response is needed to effectively address climate change related threats to tribal infrastructure in Alaska. However, little progress has been made to define or implement a governmental framework to address the coordination gap. In 2015, the Denali Commission was appointed as the lead federal coordinating agency for the federal response to erosion, flooding, and permafrost thaw in Alaska Native villages. However, the agency's new role was launched based only on a presidential announcement and came with no additional funding or authorities.

The Commission was able to achieve some success through direct investments in high priority community mitigation needs. However, the lack of an explicit federal policy directing other agencies to engage with the Commission, along with no defined agency role or dedicated funding, has limited the Commission's ability to coordinate federal agencies to improve the governmental response to impending environmental threats. A government-wide coordinating framework defining the roles, responsibilities, functions, and authorities for all relevant entities is critical to ensure efficient and cost-effective environmental threat mitigation.

Finally, federal programs are generally not structured nor funded to provide adequate technical support to tribal communities—especially related to project development, grant writing, implementation, and ongoing management. The assumption made is that sufficient capacity to carry out these functions should exist within the communities themselves. While not an unreasonable assumption when engaging with most municipalities in the United States, many tribal communities lack the relevant experience and capacity. Therefore, providing direct technical assistance within federal programs is necessary to meaningfully improve tribal access, build long-term capacity, and facilitate community development.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE ROUNDS TO  
HON. AMELIA FLORES

*Question.* I am curious to get the panel's perspective on the Corps of Engineers' Tribal Partnership Program, which has been successfully used in South Dakota. I am interested in whether this is a program you have used and, if so, what your views are on the effectiveness and utility of this program—and the Bureau of Reclamation's Native American Affairs Technical Assistance Program.

*Answer.* Senator Rounds, thank you for the question and for your focus on helping tribal governments and our local partners secure federal funding for water infrastructure projects. I understand that a number of tribal leaders in South Dakota

are enthusiastic about the expedited reviews and process available to them through the Army Corps of Engineers Tribal Partnership Program.

At CRIT, we have not had the opportunity to participate in this program. The Corps maintains the banks of the Colorado River through our Reservation; however we only work with them to a limited degree on dredging and small scale restoration projects. Should the Tribe be in a position to require a major infrastructure investment from the Corps, we will certainly consider using this program.

On the other hand, CRIT has routine interaction with the Bureau of Reclamation. We have found the Bureau's senior staff to be helpful and accommodating, which is critical because tribal governments have rights to approximately 20 percent of all Colorado River water. As Tribal Governments move forward in utilizing their full water rights, the technical assistance program will continue to be a necessary resource to help us understand the nuances of water management in the arid west.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HOEVEN TO  
HON. AMELIA FLORES

*Question.* How can we better assist Tribes with accessing and navigating federal programs?

*Answer.* Senator Hoeven, thank you for the question. In CRIT's experience, the simple answer: appoint individuals that have experience working with tribes, and consult with us on critical issues.

The biggest hurdles we've faced are when tribal water rights are not considered during the creation of a program. Two examples that come to mind are the WaterSMART program and the Intentionally Created Surplus (ICS) program on the Colorado River. In both cases, the parameters of the program were created without considering how tribes could participate. Our water rights are fundamentally different in many cases from state water rights and Reclamation Contracts. The Department just has to ask the questions about how their proposal impact tribes. Beyond just making for better policy, it is required under Executive Order 13175. The Bureau has the obligation to consult with Tribes, just like every other federal agency, and it is my hope that they will do so with greater frequency moving forward.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE ROUNDS TO  
JASON JOHN

*Question.* I am curious to get the panel's perspective on the Corps of Engineers' Tribal Partnership Program, which has been successfully used in South Dakota. I am interested in whether this is a program you have used and, if so, what your views are on the effectiveness and utility of this program—and the Bureau of Reclamation's Native American Affairs Technical Assistance Program.

*Answer.* The Navajo Nation has been effectively using the Tribal Partnership Program for smaller scale projects over the years and we appreciate the increases in non-federal cost share for the initial study/analysis of projects. We have worked on several watershed assessments through this program. We have also been utilizing other programs such as the Floodplain Management Services Program to delineate floodplains for many communities on the Navajo Nation. We appreciate the close working relationship that the Navajo Nation has developed with the Corps of Engineers offices in Albuquerque, NM, Phoenix, AZ and Los Angeles, CA.

The Navajo Nation has also been effectively using the Native American Affairs Technical Assistance Program to implement small scale water projects typically less and \$200,000 per year. The Navajo Nation has recently renewed a Memorandum of Understanding (MOU) with Reclamation that list several projects to work on as funding becomes available from Reclamation. Most recently, the program awarded funds to drill a water well in Arizona to assist with much needed water. The Navajo Department of Water Resources meets bi-annually with Reclamation's Upper and Lower Colorado River Basin offices to discuss ongoing projects and potential funding opportunities.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HOEVEN TO  
JASON JOHN

*Question 1.* How can we better assist Tribes with accessing and navigating federal programs?

*Answer.* We have benefitted in the past from federal programs that have tribal outreach coordinators and consultation meetings that focus on what federal pro-



grams are available to meet ongoing needs. The Navajo Nation is unique in its size and needs so it is important that some funding programs recognize this from the beginning as well as understand how water development occurs and how water systems are operated.

*Question 2.* Your written testimony references a 2018 tribal water study, which identified challenges and opportunities for action. You mention a need to “address statutory and regulatory prohibitions to interstate water management and use.” In addition to funding and staffing needs, are there ways we can more effectively streamline the review and permitting process?

Answer. The Navajo Nation programs are severely underfunded and understaffed. Many of these programs are also in dire need to new office complexes with adequate space for review and storage of project files. Some of the programs are funded through Public Law 93–638 programs and the funding has been trending downwards over the years. It is suggested that the federal programs, primarily the Bureau of Indian Affairs meet with these Navajo Nation programs to understand the needs and advocate for additional funds through the Department of Interior. Without additional staffing, many projects will continue to be delayed.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO  
HON. RAYMOND TSUMPTI

*Question.* Does the Chairman agree that the trust responsibility of the Federal Government to Tribal nations includes the provision of basic water services?

Answer. Yes, I believe that that provision of basic water services is critical to the federal government’s trust responsibility for the healthcare of Indian tribes and Indian people.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE ROUNDS TO  
HON. RAYMOND TSUMPTI

*Question.* I am curious to get the panel’s perspective on the Corps of Engineers’ Tribal Partnership Program, which has been successfully used in South Dakota. I am interested in whether this is a program you have used and, if so, what your views are on the effectiveness and utility of this program—and the Bureau of Reclamation’s Native American Affairs Technical Assistance Program?

Answer. Warm Springs does not have experience with the USACE Tribal Partnership Program, but works extensively with the Corps of Engineers on its management of the Columbia River hydropower system. Likewise, I do not believe Warm Springs has received funding or assistance from the Bureau of Reclamation’s Native American Affairs Technical Assistance Program.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN HOEVEN TO  
HON. RAYMOND TSUMPTI

*Question.* How can we better assist Tribes with accessing and navigating federal programs?

Answer. My concern is with the ability of federal programs to tackle the scope of the water infrastructure problem in Indian Country. Warm Springs has been able to cobble together small amounts of funding from several federal agencies for “band-aid” approaches, but they do not approach the magnitude of resources needed to address our long-term water needs.