



**U.S. Department of the Interior
Office of Inspector General**

AUDIT REPORT

**WAPATO IRRIGATION PROJECT,
BUREAU OF INDIAN AFFAIRS**

**REPORT NO. 95-I-1402
SEPTEMBER 1995**



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
Washington, D.C. 20240

SEP 29 1995

MEMORANDUM

TO:

The Secretary

FROM:

Wilma A. Lewis *for*
Inspector General

SUBJECT SUMMARY: Final Audit Report for Your Information - "Wapato
Irrigation Project, Bureau of Indian Affairs"
(No. 95-I-1402)

Attached for your information is a copy of the final subject audit report.

The Wapato Irrigation Project Office was collecting the reimbursable construction costs owed by the Project's non-Indian beneficiaries in a timely manner. However, the Project Office was not assessing, billing, or collecting annual operation and maintenance charges. As of September 30, 1994, delinquent operation and maintenance charges had increased from \$2.8 million to \$6.5 million over a 4-year period. We had previously reported on deficiencies in Wapato Project maintenance in our 1988 audit report (No. 88-42) on Indian irrigation projects. During our current audit, we noted that neither the Portland Area Office, which oversees the Project, nor the Project Office had acted to correct these deficiencies. Accordingly, Project revenues were insufficient to ensure the proper maintenance of Project facilities, which have continued to deteriorate, some to the point that future irrigation deliveries may be jeopardized.

We recommended that the Project Office, with technical assistance and oversight by the Portland Office, take the following corrective actions: develop operation and maintenance rates that include the full costs of properly operating and maintaining the Project; establish reserve funds to rehabilitate and replace Project facilities and equipment; comply with Departmental billing regulations and procedures; and enforce debt collection procedures. We also recommended that the Portland Area Office develop a plan to collect the delinquent operation and maintenance debt of \$6.5 million and that the Yakima Agency, which negotiates agricultural leases for Indian-owned Project lands, enforce the requirement for surety bonds or other security instruments for lessees of Indian lands. In addition, we suggested, and the Bureau requested, a Solicitor's opinion on whether the \$2.1 million in delinquent Project operation and maintenance debt proposed for cancellation under the Leavitt

Act would be subject to the Revenue and Reconciliation Act of 1993, which requires that the Internal Revenue Service be informed of the cancellation of individual debts over \$600. Based on the Bureau's response to our draft report and discussions with Bureau officials, we considered all of the recommendations resolved but not implemented.

If you have any questions concerning this matter, please contact me at 208-5745.

Attachment



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL

Headquarters Audits
1550 Wilson Boulevard
Suite 401
Arlington, VA 22209

SEP 30 1995

Memorandum

To: Assistant Secretary for Indian Affairs

From: Marvin Pierce *for Judy Harrison*
Acting Inspector General for Audits

Subject: Final Audit Report on the Wapato Irrigation Project, Bureau of Indian Affairs (No. 95-I-1402)

The Office of Inspector General has completed a review of the Bureau of Indian Affairs Wapato Irrigation Project, located on the Yakima Indian Reservation in the State of Washington. The review was conducted as part of our audit of the Bureau's management of its irrigation program. We issued this separate report on the Wapato Irrigation Project because of the severity of the Project's financial problems and the deteriorated state of Project facilities and equipment. Our objective was to determine whether the Bureau identified and collected reimbursable construction costs owed by non-Indians and whether it assessed, billed, and collected annual operation and maintenance charges from project landowners and water users.

We found that Project construction costs were being collected in a timely manner. The Wapato Project has been able to attain timely and consistent repayment of reimbursable construction costs because the landowners' water rights applications require the repayment of a proportionate share of those costs. As a result, as of September 30, 1994, the unpaid portion of the reimbursable construction costs for the Project's two major units was \$72,046, and the amount delinquent was only \$10,279.

However, we also found that neither the Bureau's Portland Area Office, which oversees the Project, nor the Project Office had taken actions necessary to obtain all the operation and maintenance charges owed to the Project and to ensure the proper maintenance of Project facilities and equipment. As of September 1994, delinquent operation and maintenance charges totaled \$6.5 million, including \$1 million that had not been billed and \$1.2 million that had been billed but not collected during fiscal years 1993 and 1994. Specifically, our review disclosed that:

The Project Office did not assess operation and maintenance rates based on the estimated full cost of delivering irrigation water and maintaining Project facilities. Rates assessed by the Project Office included primarily routine operating costs but did not include costs for the systematic maintenance, rehabilitation, and replacement of Project facilities and equipment. Although the Code of Federal

Regulations and the Bureau Manual require full cost-based rates, these regulations were general, and neither the Bureau nor the Portland Area Office had developed specific guidance on what costs should be included in the rates and how the costs should be developed. Accordingly, the Project Office continued to assess rates that were insufficient to properly maintain the Project.

The Project Office did not mail annual operation and maintenance bills to all water users and landowners of idle allotted Indian trust lands. The bills were not mailed primarily because Yakima Agency Realty personnel did not provide the Project Office with the current names and addresses of the owners and lessees of these lands and the Project did not modify its billing practices to conform with the Departmental requirement that the landowners and lessees should be notified in writing of their debt. For fiscal years 1993 and 1994, we identified bills representing assessments of \$1 million that had not been mailed.

The Portland Area and Project Offices did not follow required procedures, such as the use of administrative offset or placing holds on individual Indian money accounts, to collect delinquent operation and maintenance charges. Area Office and Project personnel said that they were reluctant to pursue debt collection from the Yakima Indian Nation and individual Indians, who owe 93 percent of the \$6.5 million delinquent debt owed to the Project, because of the Nation's belief that payment of operation and maintenance charges was part of the Bureau's trust responsibility. We identified \$1.2 million that had not been collected for fiscal years 1993 and 1994. In addition, neither the Portland Area nor the Project Office had a plan for collecting the delinquent debt.

The Area Office allowed the Yakima Agency to discontinue requiring surety bonds or other security instruments for the lessees of Indian lands, even though Federal regulations require such instruments to ensure that lessees honor their contractual obligations. The Agency had also negotiated and renegotiated leases with lessees who owed operation and maintenance charges. Agency personnel stated that the Yakima Indian Nation believed that the bond requirement lessened their lease revenues and, as such, had requested that the bonds be discontinued. We believe, however, that the discontinuance of the bonds, in effect, encouraged delinquencies, increased the debt against Indian-owned lands, and provided unintended subsidies to non-Indian irrigators.

To correct the deficiencies noted in this review and in our 1988 audit report (No. 88-42), we recommended that the Project Office, with oversight by the Portland Area Office, take the following actions: determine the full cost of properly operating and maintaining the Project; establish reserve funds to rehabilitate and replace facilities and equipment; comply with Departmental billing regulations and procedures; and enforce debt collection procedures. In addition, we recommended that the Portland Area Office develop a plan for collecting the Project's \$6.5 million of delinquent operation and maintenance charges and that the Yakima Agency renew its enforcement of surety bonds or other security instruments.

The September 25, 1995, response (Appendix 4) to our draft report from the Assistant Secretary for Indian Affairs generally concurred with the six recommendations and was sufficient for us to consider all the recommendations resolved but not implemented. Accordingly, the recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation, and no further response to the Office of Inspector General is required (see Appendix 5).

In addition, we suggested that the Bureau request a Solicitor's opinion to determine whether the \$2.1 million in delinquent Project operation and maintenance debt being proposed for cancellation under the Leavitt Act would be subject to the Revenue and Reconciliation Act of 1993. This Act requires that the Internal Revenue Service be informed of the cancellation of individual debts over \$600. The Bureau requested a Solicitor's opinion on March 31, 1995.

The legislation, as amended, creating the Office of Inspector General requires semiannual reporting to the Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

We appreciate the participation of Bureau officials in the conduct of our audit.

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INTRODUCTION

BACKGROUND

The Wapato Irrigation Project, one of the largest Indian irrigation projects operated by the Bureau of Indian Affairs, is located within the boundaries of the Yakima Indian Reservation in Yakima County, Washington. The Project, which consists of the Wapato-Satus Unit and three smaller units, was built at a cost of about \$9 million. Project facilities, some of which were constructed as far back as 1897, include 2 diversion dams, 600 miles of canals and laterals, 150 miles of pipelines, 350 miles of drains, 16 pumping plants, and 2 hydroelectric plants.

The Project diverts about 600,000 acre-feet of water annually from the Yakima River for the irrigation of approximately 142,000 acres of arable land, of which 78,000 acres, or 55 percent, are owned by Indians and 64,000 acres, or 45 percent, are owned by non-Indians. The title to the Indian-owned land is held in trust for individual Indians and the Yakima Indian Nation by the United States. Most of the Indian owners lease their land to non-Indians. In 1993, 102,000 acres were farmed by non-Indians, 13,000 acres were farmed by Indians, and 27,000 acres were idle. The Bureau estimated the value of the crops produced in 1993 at \$176 million. The Project is operated by a Project Engineer, who is responsible for ensuring that the Project is properly operated, maintained, and administered, including the assessing, billing, and collecting of operation and maintenance charges from all Project landowners and water users. The Project Engineer reports to the Area Director of the Portland Area Office.

Since 1976, the Bureau of Reclamation, the Bureau of Indian Affairs, and the Yakima Indian Nation have issued six reports¹ addressing the deteriorated physical condition of the Project. The Bureau of Reclamation's 1976 report stated that most of the Project's physical facilities were in various stages of deterioration and identified the need for detailed cost and maintenance records and a program to ensure that equipment, vehicles, and facilities were maintained and replaced on a regular schedule. The Bureau of Reclamation's 1990 report stated that the Project was in a progressive state of deterioration because of insufficient operation and maintenance funding. The report identified serious health, safety, and security violations that increased the Government's liability, as well as the risk of injury or

¹The six reports are "Facilities and Operations Appraisal, Wapato Irrigation Project, Washington," issued by the Bureau of Reclamation in 1976; "Trip Report on Technical Assistance to the Wapato Irrigation Project," issued by the Bureau of Indian Affairs in 1990; "Assessment of Hydroelectric Generation and Transmission Facilities," issued by the Bureau of Reclamation in 1990; "Safety and Health Inspection of Wapato Irrigation Project," issued by the Bureau of Indian Affairs in 1991; "Water Conservation and Resource Enhancement Plan on the Yakima Indian Reservation Within the Wapato Irrigation Project," issued by the Yakima Indian Nation in 1992; and "Review of Operation and Maintenance Program, Examination Report, Wapato Irrigation Project," issued by the Bureau of Indian Affairs in 1993.

death to the general public. Similarly, the Bureau of Indian Affairs July 1991 report identified 77 deficiencies, including 49 serious violations of Occupational Safety and Health Administration and National Fire Code regulations. The Bureau of Indian Affairs January 1993 report stated that only extensive rehabilitation of the Project would bring it up to modern irrigation, operation, and safety standards. The report noted that Project structures were almost uniformly in poor condition, with cracked and deteriorating concrete, and that the main canal would require almost complete replacement to bring it up to operating standards. The report recommended that the Project be considered for a rehabilitation and betterment program because the Project does not have the revenues available to fund the needed repairs.

OBJECTIVE AND SCOPE

This review was performed as part of our audit of the Bureau of Indian Affairs irrigation program to determine whether the Bureau: (1) took appropriate actions to identify and collect reimbursable construction costs owed by non-Indians; and (2) adequately assessed, billed, and collected annual operation and maintenance charges.² The results of our Bureauwide review will be addressed in a separate report. We are issuing a separate report on the Wapato Irrigation Project because of the Project's financial problems and the Project's severely deteriorated physical condition.

To accomplish our review, we interviewed officials from the Bureau, the Department of the Interior's Office of the Solicitor, and water user organizations concerning the financial aspects and the operation and maintenance of the Project. In addition, we reviewed laws and legislative histories, Congressional correspondence and hearings, Bureau policy and procedure manuals, Bureau correspondence, and technical reports from various sources on the physical condition of Project facilities and equipment. We reviewed Project and Bureau records related to billing and collecting charges, Project expenditures, leasing, and idle lands. Our audit covered primarily Bureau and Project activities related to the development of operation and maintenance assessment rates and to the billing and collecting of operation and maintenance charges for fiscal years 1993 and 1994. Similar activities for prior periods were included as appropriate.

The audit, which was conducted from May through December 1994 at the locations listed in Appendix 2, was made in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances. As part of our audit, we evaluated the Bureau's system of internal controls and found weaknesses in the Bureau's processes for

²As used in this report, operation and maintenance consists of all actions taken to remedy conditions brought about by the day-by-day use of the Project's irrigation facilities, including capital improvements related to the rehabilitation and replacement of the Project's infrastructure and equipment.

assessing, billing, and collecting operation and maintenance charges for the Project and in the Bureau's enforcement of surety bond or other security requirements. We also reviewed the Department's Annual Statement and Report, required by the Federal Managers' Financial Integrity Act, for fiscal years 1992 and 1993 to determine whether any of the reported weaknesses were directly related to the scope of our audit. The reports cited long-standing material weaknesses in the Bureau's irrigation program and debt collection practices, including the need for regulations, policies, and procedures to be updated because these criteria were insufficient to properly administer irrigation projects and debt collection functions.

PRIOR AUDIT COVERAGE

In 1988, the Office of Inspector General issued the audit report "Operation and Maintenance Assessments of Indian Irrigation Projects, Bureau of Indian Affairs" (No. 88-42). The report stated that the Bureau was not assessing, billing, and collecting operation and maintenance charges as required. In addition, the Bureau had not properly accounted for \$807,891 of reimbursable construction costs collected at the Wapato Irrigation Project. The report contained 21 recommendations, 15 of which applied to the Wapato Irrigation Project. The Bureau's corrective action plan was sufficient to resolve the 15 recommendations that applied to the Project; however, in our current review, we found that 8 of the 15 recommendations were not fully implemented (see Appendix 3).

RESULTS OF AUDIT

A. PROJECT REIMBURSABLE CONSTRUCTION COSTS

The Wapato Irrigation Project Office continued to collect the reimbursable construction costs owed to the Federal Government by the Project's non-Indian landowners in a timely manner. In our January 1989 report "Repayment of Investment in Indian Irrigation Projects, Bureau of Indian Affairs," we concluded that the Wapato Irrigation Project was one of only two projects, out of the seven reviewed, in which reimbursable construction costs were being repaid in a timely manner. Our current audit disclosed that the process for billing, collecting, and accounting for reimbursable construction costs was essentially unchanged. Therefore, we performed a limited review of the Project's Wapato-Satus and Ahtanum units,³ the Project's two major units, to ensure that Project personnel were billing and collecting reimbursable construction costs in accordance with repayment provisions published in the *Federal Register*. We found that the costs were being appropriately accounted for. Therefore, the unpaid balance of the reimbursable construction costs continued to decline and the amount of delinquent construction receivables was insignificant in relation to construction cost repayments as follows:

<u>Project Unit</u>	<u>Reimbursable Construction costs</u>	<u>Amount Repaid</u>	<u>Unpaid Balance</u>	<u>Amount Delinquent</u>
Wapato-Satus	\$4,289,619	\$4,218,650	\$70,969	\$10,269
Ahtanum	<u>21,436</u>	<u>20,359</u>	<u>1,077</u>	10
Total	<u>\$4,311,055</u>	<u>\$4,239,009</u>	<u>\$72,046</u>	<u>\$10,279</u>

The Project Office has been able to obtain timely repayment because the water rights applications of Project landowners included a provision requiring that landowners repay a proportionate share of the Project's reimbursable construction costs. Therefore, the unpaid portion of the reimbursable construction costs for the Project's major units totaled only \$72,046 as of September 30, 1994.

³There are no reimbursable construction costs applicable to the Toppenish Simcoe Unit. Water is provided on a request and/or demand basis only and is billed at that time. Final construction costs for the "Additional Works" unit have not been determined by the Bureau.

B. PROJECT OPERATION AND MAINTENANCE FUNDING

The Portland Area Office and the Wapato Irrigation Project Office did not ensure that all revenues owed to the Project were obtained to properly maintain Project facilities and equipment. The Code of Federal Regulations and the Departmental and Bureau Manuals require that operation and maintenance rates cover the full costs of all Project activities involved in delivering irrigation water and that operation and maintenance charges be properly and promptly billed and collected. However, Project personnel did not: (1) accurately estimate and include in the operation and maintenance rates all costs necessary to operate and maintain Project facilities and equipment; (2) bill all landowners and water users; and (3) comply with debt collection procedures. In addition, Project personnel's efforts to assess and recover costs were hampered because Yakima Agency Office personnel did not provide Project personnel with up-to-date land ownership and water user information and did not enforce surety bonding or other security requirements. Further, the Area Office did not develop supplemental guidance or provide the oversight necessary to ensure that Project and Agency personnel complied with existing policies and procedures. As a result, sufficient funds were not available to properly maintain the Project, and it has deteriorated to the extent that several studies have concluded that the continued ability of the Project to deliver water is in doubt. We could not determine the amount of the underassessments because Project personnel had not developed and included all costs in Project assessment rates. However, we found that total delinquent operation and maintenance charges assessed by and owed to the Project had increased to \$6.5 million, which included, for fiscal years 1993 and 1994, operation and maintenance charges of \$1 million that had not been properly billed and additional charges of \$1.2 million that had been billed but not collected,

Assessing Operation and Maintenance Rates

Title 25, Part 171, of the Code of Federal Regulations and the Bureau of Indian Affairs Manual (55 BIAM, Supplement 4) require that the Bureau establish an operation and maintenance rate based on the full estimated cost of the project activities involved in delivering irrigation water and maintaining completed project facilities. However, these regulations are general, and neither the Bureau nor the Area Office had developed specific guidance on what costs should be included in the operation and maintenance rate. As such, the operation and maintenance rates developed by Project personnel and the resultant revenues were insufficient to stem the deterioration of Project facilities and equipment.

We found that the assessed operation and maintenance rates did not cover the full costs of delivering water. Specifically, Project personnel had not developed the data necessary to prepare accurate budget estimates upon which to base an operation and maintenance rate that would address the Project's current and future maintenance needs. For example, personnel had not developed: (1) a comprehensive, current, and accurate inventory of Project facilities and equipment; (2) estimates of the current and future costs of maintaining and replacing facilities and equipment,

including cost estimates for equipment ownership and contingencies; and (3) a plan and prioritized schedule for maintenance and rehabilitation work which ensured that facilities and equipment were properly maintained and replaced on a regular and systematic schedule. Instead, Project personnel budgeted operation and maintenance costs based only on estimated routine operating costs, such as wages, utilities, gasoline, and office equipment, and generally excluded the costs of needed capital improvements. Accordingly, maintenance was performed only on an exception basis, whenever funds were available to the Project.

The lack of adequate maintenance, combined with the increasing age of Project facilities, has resulted in the deterioration of the Project. This deterioration was validated in a video of the Project given to us by Area Office personnel and has been well documented in the technical reports on the Project that were previously discussed. These reports noted, and we observed during our tour of Project facilities, that the Project's pumping and hydroelectric plants, much of its equipment, and many of its concrete structures were in poor condition and needed extensive rehabilitation or replacement as follows:

- The Project's two hydroelectric plants, which should be providing part of the Project's electrical power, were not operating. One plant has been out of service for about 4 years, and the other plant has been out of service for about 2 years because of safety violations. As a result, the Project Office purchased electrical power from a commercial utility at an additional cost of about \$300,000 per year.

An equipment listing provided by the Project Office revealed that 40 of the 48 pieces of movable equipment, such as bulldozers and backhoes, were 15 years old or older, even though the estimated useful lives of these items are generally 7 to 15 years. Project personnel had classified 27 of the 48 pieces in poor condition and 13 pieces in fair condition, but the Project Office had not developed equipment replacement rates and included such costs in the annual operation and maintenance rate.

The Bureau, based on criteria in a 1960 memorandum from the Assistant Commissioner (Administration), determined that lands within the Wapato Irrigation Project were capable of supporting the full amount of the Project's annual operation and maintenance costs. Therefore, under Bureau regulations (25 CFR 171.19(a)), all lands, regardless of whether water is requested, should be assessed operation and maintenance charges that cover the full costs of delivering water. However, the full costs of delivering water were not assessed, billed, or collected, in part, because until 1984, the Project's operation and maintenance budget was partially supplemented by funds from Bureau appropriations for construction and for payment of delinquent operation and maintenance charges on idle trust lands. After funding for payment of delinquent operation and maintenance charges was discontinued in 1984, the Project rates were not increased to reflect the absence of these funds.

The Project Office did implement a 35 percent rate increase to provide funding in 1991 and 1992 for repairs and to allow the continued delivery of water. However,

even this rate increase was not sufficient to address the Project's deteriorated condition because of the cumulative effect of the underassessment of operation and maintenance charges and insufficient rate increases over at least the prior 10 years. Further, we found that there were no additional operation and maintenance rate increases for fiscal years 1993 and 1994, even though the Area and the Project Offices and water users were aware that costs were increasing and that Project facilities were deteriorating.

We believe that Project personnel should determine the total cost of all activities involved in delivering water and maintaining the facility, which would include developing cost estimates for the rehabilitation and replacement of facilities, based on their estimated useful life and replacement costs. To establish an equitable basis for a rehabilitation and replacement charge, the Project Office should develop a comprehensive inventory of all Project facilities and equipment and include information such as their age, physical condition, and remaining useful lives. The inclusion of estimates for the replacement of facilities and equipment in future operation and maintenance assessment rates would allow the Project to establish and fund reserves for systematically rehabilitating and replacing the Project's facilities and equipment and for financing any repairs resulting from contingencies, such as acts of nature.

Billing Operation and Maintenance Charges

Part 344 of the Departmental Manual requires that debts owed to the Government be properly and promptly billed; that is, debtors should be promptly notified in writing of the basis for their debt, the amount due, and the specified due date. However, the Wapato Project Office did not notify all landowners and water users in writing of their debt, as required. Of the approximately 8,600 billings generated for fiscal years 1993 and 1994, we found 680 bills that had not been properly prepared and mailed to landowners or water users. These bills, representing assessments of \$1 million, were primarily applicable to allotted Indian trust lands that were idle.⁴ We reported this same condition in our 1988 report, which identified 730 bills, totaling \$630,000, that were not mailed in fiscal years 1984 through 1986. However, we found that the Area Office and the Project Office had not, in the interim, taken corrective action to ensure that all bills were properly prepared and mailed. As a result, this problem has impeded the ability of the Project Office to obtain the revenues necessary to stem the deterioration of Project facilities and equipment.

The operation and maintenance bills were not properly prepared and mailed primarily because the Area Office did not ensure that Yakima Agency Realty and Project personnel worked together to update idle land ownership and lease records with current and accurate names and addresses of all Project landowners and water

⁴Allotted Indian trust lands are small parcels of tribal trust lands for which ownership has been awarded to individual Indians.

users. We found that Agency Realty personnel did not routinely inform Project personnel of changes in land ownership and lease information, such as identifying all current landowners for some Project lands under multiple heirship.⁵ In other cases, Project personnel had not been informed of leases executed by Agency Realty personnel. For example, the 680 unmailed bills included 36 bills, with assessments totaling \$40,000, for lands which the Project Office presumed were idle but which had been leased by the Agency office. Delinquent operation and maintenance charges on leased or idle trust lands attach to and become a debt of these lands. Accordingly, we believe that the Area Office should establish procedures to ensure that Agency Realty personnel provide Project Office personnel with current names and addresses of all landowners and lessees of Project lands before the beginning of each irrigation season.

We also found that operation and maintenance bills for lands that were idle were not mailed, in part, because the Area Office did not ensure that the Project Office modified its billing practices for idle lands to conform with Departmental regulations requiring that all Project landowners and water users be billed. Project personnel informed us that their billing practices were based, in part, on guidance in the Bureau Manual (55 BIAM, Supplement 4), which stated that when assessable Indian trust lands were idle and the collection of assessments was “impossible” during the current irrigation season, bills “shall be prepared and kept on file.” Under this guidance, no further action was required unless the land involved was eventually sold and the delinquent debt was paid from the proceeds of the sale. Project personnel informed us that this guidance was based on the assumption that the owners of idle lands were not able to pay operation and maintenance charges. In addition, Project personnel stated that they did not believe that it was cost effective to annually bill idle lands under multiple heirship, as each of these landowners owed only small, insignificant amounts of monies.

We noted, however, that this guidance did not conform with current Departmental debt collection requirements, which require that debts owed to the Bureau be promptly billed and recorded to ensure that these amounts remain legally enforceable debts due the Project. The Project Office also did not provide any analysis to support its assumption that operation and maintenance charges on idle lands were uncollectible or that billing multiple owners of idle lands for small amounts was not cost effective. In addition, we found that the Project Office did not bill the owners or lessees of Project lands on a consolidated basis but instead mailed separate bills for each tract of land. This practice, which often results in one owner or lessee being mailed several bills instead of just one bill, is cumbersome and expensive to administer. We believe that Project personnel should be instructed to follow Departmental billing procedures and to prepare and mail consolidated bills

⁵under Indian probate laws, as individuals die, their property descends to their heirs as undivided “fractional” interests in the allotments (tenancy in common). That is, if an Indian owning a 160-acre allotment dies and has four heirs, the heirs do not inherit 40 acres each. Rather, they each inherit a 1/4 interest in the entire 160-acre allotment. Over time, “fractionalization” has expanded geometrically to the point where there are hundreds of thousands of tiny fractional interests.

for annual operation and maintenance charges to all landowners and water users of Project lands.

Collecting Operation and Maintenance Charges

We found that except for a one-time collection effort in fiscal year 1993, the Area and Project Offices had not implemented the required actions to collect delinquent operation and maintenance charges owed to the Project, which, as of August 1994, totaled \$6.5 million. Specifically, the Area and Project Offices did not follow procedures allowed by Title 4, Parts 101-105, of the Code of Federal Regulations and Part 344, Chapters 2 and 3, of the Departmental Manual for the collection of delinquent debts. These procedures include: (1) reporting debts to consumer reporting agencies; (2) referring debts to commercial collection agencies; (3) contacting debtors' employment agencies; (4) liquidating available collateral; (5) requesting the debtor's mailing address from records of the Internal Revenue Service; and (6) using an administrative offset against other monies due non-Indians, Indians, and the Yakima Nation from the Government.

Regarding administrative offsets, Part 344, Chapter 3.1, of the Departmental Manual provides, in part, that bureaus may collect debts owed by persons and state or local governments (which include Indian tribal governments) by means of offsets against other monies due from the United States. In addition, an area office may place holds on and withdraw funds from individual Indian money accounts to recover delinquent debts owed to the Government, as allowed by Title 25, Part 115.9, of the Code of Federal Regulations. We found that neither of these additional collection procedures was used by the Area Office. Instead, collection efforts were generally limited to the Project Office mailing three separate demand requests for payment, with no additional actions taken if payment was not received. In addition, neither the Area Office nor the Project Office had an ongoing program or a formalized plan, with target dates, for collecting the remaining \$6.5 million of delinquent charges owed to the Project. We also noted that the Project Office did not terminate, as allowed under Title 25, Part 171, of the Code of Federal Regulations, water deliveries to lands that had delinquent operation and maintenance charges. The failure to terminate water deliveries has impeded the ability of the Area and the Project Offices to collect delinquent operation and maintenance charges in that nonpayment was not penalized. Rather, nonpayment was rewarded because the irrigator's revenues were increased by the amount of the delinquent operation and maintenance charges.

The 1993 debt collection effort was initiated because the Project was virtually without funds and needed additional revenues to continue to operate. The Area Office, with the assistance of the Office of the Solicitor, collected approximately \$117,000 of the delinquent charges and obtained promissory notes for an additional \$463,062 owed by non-Indians. In addition, the Yakima Nation paid about \$426,754 against the delinquent operation and maintenance charges of approximately \$1.4 million owed in 1993. However, since these efforts concentrated primarily on the 7 percent of the

debt owed by the non-Indians and not on the 93 percent of the delinquent debt owed by the Nation (18 percent) and the individual Indian lands (75 percent), the Project's delinquent debt was not reduced significantly. We noted that approximately 29 percent of the delinquent debt on individual Indian lands was applicable to leased lands on which operation and maintenance charges were not paid and no surety bonds were required.

The required debt collection procedures were not followed because the Project and the Area Offices did not enforce implementation of the procedures. Area Office and Project personnel told us that they were reluctant to pursue the collection of these debts because of pressure from the Yakima Nation and individual Indians. In that regard, a member of the Nation's Irrigation and Land Committee informed us that the Committee did not believe that the Nation or individual Indians should pay operation and maintenance charges because the Nation believed that these costs were a trust responsibility of the Bureau. While we were not provided, nor did we find, any legal basis to support the Nation's position, we did note that little or no effort was made to collect the delinquent operation and maintenance charges owed by the Nation or individual Indians

Because prescribed debt collection procedures were not implemented, the Project Office's ability to fund needed maintenance and rehabilitation of facilities and equipment has been substantially reduced. Specifically, delinquent charges have increased by \$3.7 million, from \$2.8 million in 1990 to \$6.5 million in 1994, as follows:

CUMULATIVE DELINQUENT OPERATION AND MAINTENANCE CHARGES
(Excludes Interest, Penalty, and Administration Charges)

<u>Fiscal Year</u>	<u>Individual Indian</u>	<u>Yakima Nation</u>	<u>Non-Indian</u>	<u>Total</u>
Prior to 1990	\$1,992,961	\$303,332	\$116,522	\$2,412,815
1990	2,327,950	379,695	149,376	2,857,021
1991	2,802,937	536,694	195,327	3,534,958
1992	3,384,746	722,833	260,231	4,367,810
1993	4,009,396	975,147*	373,123	5,357,666
1994	4,753,285	1,227,216	560,768	6,541,269

*Represents the Nation's fiscal year 1993 total debt after \$426,754 was paid to the Project.

Of the \$2.2 million increase in delinquent debt from 1992 to 1994, we found that charges of \$1 million were delinquent because bills were not properly prepared and

mailed (see section “Billing Operation and Maintenance Charges”) and that \$1.2 million was delinquent, in part, because the Area and Project Offices did not comply with required debt collection procedures. We believe that the Area Office should coordinate with the Project Office to provide the oversight, assistance, and support necessary to ensure that the collection of all delinquent operation and maintenance charges is aggressively pursued in a timely and consistent manner, in accordance with Departmental debt collection requirements. This effort should also include a formalized plan, with target dates, for collecting the delinquent operation and maintenance charges of \$6.5 million owed to the Project. If these actions are not taken, we believe that delinquent operation and maintenance charges will continue to increase and that the ability of the Project to continue to deliver water will be in jeopardy.

Bonding or Other Requirements

Title 25, Part 162.5, of the Code of Federal Regulations states that a satisfactory surety bond or other security is required of lessees in an amount that will reasonably ensure performance of contractual obligations under the lease. However, Yakima Agency Realty personnel informed us that the Agency discontinued requiring surety bonds in 1970 at the request of the Yakima Indian Nation, which believed that the cost of surety bonds would result in reduced leased revenues to Indian landowners. This lack of compliance with security requirements has continued for 25 years, in part, because of insufficient oversight by Area Office personnel. As a result, Agency Realty personnel negotiated and renegotiated agricultural leases with lessees who owed operation and maintenance charges without requiring surety bonds. This practice has directly increased the delinquent operation and maintenance charges owed to the Project and thus the debt on individual Indian trust lands.

Our analysis of a 1994 Bureau delinquency report disclosed 313 lessees with accumulated delinquent operation and maintenance charges totaling \$875,000 for the 7-year period 1988 through 1994. This list included three irrigators whose delinquent operation and maintenance charges during this period totaled about \$409,000. Further, Agency Realty personnel had leased and renewed leases for numerous tracts of Indian trust land to these individuals without requiring surety bonds. However, these three irrigators had been delinquent in paying part or all of their operation and maintenance charges for up to 20 years, for which unpaid charges totaled about \$524,000. This amount is now reflected as delinquent operation and maintenance charges on individual Indian trust lands. We also noted that the Project Office did not terminate water deliveries to these lands, as required. Thus the Agency and the Project Office have subsidized these irrigators’ operations.

We understand the desire of the Nation to maximize lease revenues and the general reluctance of Agency Realty personnel to enforce bonding requirements because of the request from the Nation. However, this same basic condition, the lack of enforcement of bonding requirements, was identified in our 1988 audit report, and neither the Area Office nor the Agency has taken action to address the lack of surety

bonds on leased lands. Accordingly, we believe that the Agency's implementation of the requirement for surety bonds or other securities, such as certificates of deposit, to ensure performance of lessee obligations under the lease is essential and that the Area Office should enforce this requirement for all leased lands. We also believe that the Agency should take action against the bond or other security if irrigation operation and maintenance charges are not paid. In addition, the Area Office should instruct Agency personnel to coordinate with Project personnel to ensure that leases are not made or renewed until delinquent operation and maintenance charges are paid. In our opinion, these actions are necessary to ensure the continued operation of the Project and protect the interests of all Project landowners and the Government by preventing the accrual of additional liabilities against Indian trust lands.

Recommendations

We recommend that the Assistant Secretary for Indian Affairs require:

1. The Wapato Irrigation Project Office to develop a comprehensive inventory of facilities and equipment and Project budgets and assessment rates which include accurate estimates of the full costs of properly operating, maintaining, rehabilitating, and replacing the Project's infrastructure. These estimates should include costs for capital improvements, contingencies, and equipment replacement. The Portland Area Office should provide the oversight and technical assistance needed to ensure that these documents and estimates are prepared by the Project Office.

2. The Project Office, with technical assistance from the Portland Area Office, to establish and fund reserve accounts for capital improvements, contingencies, and equipment replacement.

3. The Project Office to comply with Departmental billing regulations and procedures, which require that all owners or water users of Project lands be billed annual operation and maintenance charges. In this regard, the Yakima Agency should be required to provide the current names and addresses of all Project landowners and lessees to Project personnel before the beginning of each irrigation season.

4. The Portland Area Office to develop a formalized plan, with target dates, for collecting the approximately \$6.5 million of delinquent operation and maintenance charges owed to the Project.

5. Project personnel to enforce debt collection procedures and to terminate water deliveries to lands on which there are delinquent operation and maintenance charges.

6. Yakima Agency Realty personnel to enforce surety bonding or other security requirements and not to lease lands or renew leases when delinquent operation and maintenance charges are owed by the lessees.

Bureau of Indian Affairs Response

The September 25, 1995, response (Appendix 4) from the Assistant Secretary for Indian Affairs concurred with Recommendations 1, 2, 3, 4, and 6 and did not state concurrence or nonconcurrence with Recommendation 5.

Recommendation 1. The Bureau concurred and stated that Project Office personnel would inventory project equipment, determine a replacement date and an estimated replacement cost for each item, and adjust the operation and maintenance rate for the 1996 irrigation season to ensure that the rate was sufficient to cover the immediate expenses of operating the Project. The Bureau also stated that it would inventory Project facilities, initiate design studies to establish the dates and costs of replacing the facilities, identify needed repairs and maintenance to develop a full-cost operation and maintenance rate, and establish a policy for defining the amount of contingency funds needed for the Project.

Recommendation 2. The Bureau concurred and stated that it would revise its regulations to establish its authority to assess irrigation rates sufficient to recover a project's total operation and maintenance costs, including contingencies. To implement the regulation change, the Bureau said that it will establish a new section in its Manual (48 Bureau of Indian Affairs Manual) to specify procedures for assessing, billing, and collecting irrigation charges. In addition, according to the Bureau, the Project's business plan, when developed, will recommend operation and maintenance rates that are sufficient to fund a reserve account.

Recommendation 3. The Bureau concurred and stated that for the last 2 years, the National Irrigation Information Management System has provided limited billing support to the Project. The Bureau further stated that to more fully use the System to support the Project's irrigation billing needs and ensure that all landowners and water users are billed annual operation and maintenance charges, the Yakima Agency will enter information on multiple ownership of land into the System before bills are developed for the 1996 irrigation season. The Bureau further stated that the Area Realty Officer will develop a method for automating verification of the Portland Area Office's land ownership records with the land ownership records in the System's database.

Recommendation 4. The Bureau concurred with the recommendation, stating that the Portland Area Office will continue efforts to collect delinquent amounts. In addition, the Bureau cited new actions taken as follows: (1) issuing the required demand letters after verifying the addresses of current landowners or water users; (2) submitting delinquent accounts to a commercial debt collection contractor for collection with the referral to the Solicitor, if appropriate, of accounts returned by

the contractor; (3) withholding approval of the Yakima Indian Nation's tribal budget unless the budget includes amounts for the payment of operation and maintenance charges on tribal lands; and (4) analyzing the individual Indian money accounts of Indian landowners with delinquent operation and maintenance charges to determine the availability of funds and to initiate collection actions.

Recommendation 5. Although the Bureau did not indicate concurrence, it stated that the Project will, where possible, refuse to deliver water to landowners or lessees that have delinquent operation and maintenance charges and will not renew leases to lessees that have delinquencies. In addition, according to the Bureau, operation and maintenance charges due from prior lessees will be referred to the debt collection contractor for collection. The Bureau further stated that if the contractor is unable to collect from Indian landowners or lessees, their individual Indian money accounts will be analyzed by the Area Office to determine the availability of funds and to initiate collection actions. Further, the Bureau said that communication between Agency Realty and Project personnel will be improved by moving the Project's Irrigation Billing Section to the Yakima Agency Office and by using the National Irrigation Information Management System to provide Project administrators with a delinquency report by account and tract of land.

Recommendation 6. The Bureau concurred, stating that the Portland Area Director's August 24, 1994, memorandum directed the Yakima Agency Superintendent to require an irrevocable letter of credit sufficient to cover the full amount of annual operation and maintenance charges for all leases in force on or after January 1, 1995.

Office of Inspector General Comments

Based on the Bureau's response and discussions with Bureau officials from the Office of Audit and Evaluation and from the Power and Irrigation Reconciliation Team, we consider the six recommendations resolved but not implemented (see Appendix 5).

Regarding Recommendation 5, the Bureau's proposed actions are sufficient to meet the intent of the recommendation. Regarding Recommendation 6, we noted that the Area Director's directive had not been implemented for the 1995 irrigation season and that the directed actions should therefore be taken prior to the 1996 irrigation season.

OTHER MATTERS

Since the completion of our site work, the Portland Area Office requested the Bureau of Indian Affairs Washington Office to submit, to the Secretary of the Interior, the proposed cancellation, under the provisions of the Leavitt Act, of approximately \$2.1 million of delinquent Project operation and maintenance charges for the period 1971 through 1991. The Leavitt Act (25 U.S.C. 386a) provides in part:

The Secretary of the Interior is hereby authorized and directed to adjust or eliminate reimbursable charges of the Government of the United States existing as debts against individual Indians or tribes of Indians in such a way as shall be equitable and just in consideration of all the circumstances under which such charges were made [The Act also provides] that the Secretary shall report such adjustments and eliminations to the Congress not later than sixty calendar days following the end of the fiscal year in which they are made . . . and that any proceedings hereunder shall not be effective until approved by Congress unless Congress shall have failed to act favorably or unfavorably thereon by concurrent resolution within ninety calendar days after the filing of said report, in which case they shall become effective at the termination of the said ninety calendar days.

Before cancellation, we believe that the Bureau should obtain a Solicitor's opinion to determine whether debts canceled under the Leavitt Act are required to comply with the provisions of the Revenue and Reconciliation Act of 1993, as specified in Section 6050P of the Internal Revenue Code. These provisions require that Federal agencies prepare and send Internal Revenue Service Form 1099-C, "Cancellation of Debt," to every debtor for whom they canceled a debt of \$600 or more. The debtor, in turn, is required to report the canceled debt as income for Federal tax purposes. The applicable debts include amounts that are uncollectible under the statute of limitations. If the provisions of the Revenue and Reconciliation Act are applicable, the Bureau should develop procedures for accurately determining the amounts owed by each debtor, generating the appropriate Internal Revenue Service form, and notifying all the debtors involved.

Office of Inspector General Comments

The Bureau requested the Solicitor's opinion on March 31, 1995.

CLASSIFICATION OF MONETARY AMOUNTS

<u>Finding Area</u>	<u>Potential Additional Revenues</u>	<u>Underpaid Revenues</u>
Billings	\$1,024,806	
Collections		\$1,148,653

ORGANIZATIONS VISITED OR CONTACTED

<u>Organization</u>	<u>Location</u>
U.S. Department of the Interior	
Bureau of Indian Affairs	
Headquarters Office	Washington, D.C.
Portland Area Office	Portland, Oregon
Yakima Agency Office	Toppenish, Washington
Wapato Irrigation Project Office	Wapato, Washington
Irrigation and Power Liaison and Compliance Section*	Albuquerque, New Mexico
Office of the Solicitor	Portland, Oregon
Water User Organizations	
Irrigation Committee of the Yakima Indian Nation	Toppenish, Washington
Yakima Reservation Irrigation District (non-Indian)	Yakima, Washington

*Contacted only

SUMMARY OF UNIMPLEMENTED RECOMMENDATIONS FOR THE WAPATO IRRIGATION PROJECT FROM AUDIT REPORT NO. 88-42

Recommendations	Status of Corrective Actions
1. Forward the operation and maintenance billings for recently deceased Indians to the appropriate probate officials for possible inclusion in the probate,	New procedures have not been developed that require the Yakima Agency to notify the Wapato Project Office of recently deceased Indians and to allow the forwarding of any unpaid operation and maintenance billings to the Agency for inclusion in the probate.
2. Bill multiple owners of all irrigated tracts of land or establish a point beyond which it is not cost-effective to do so.	The Bureau's National Irrigation Billing System is developing the capability to bill multiple owners of Indian trust land, but that capability is not operational at the Project Office.
3. Develop procedures to ensure that project personnel are promptly notified of all leases, especially those approved after the start of the irrigation season.	Procedures still have not been developed to require that the Yakima Agency report all leases to the Project.
4. Establish procedures to ensure that leased acreage data is verified and is reconciled with the assessed acreage shown on the operation and maintenance billings.	Procedures have not been developed requiring the Yakima Agency and the Wapato Project Office to annually reconcile their records to ensure that all leased acreage is billed for operation and maintenance charges.
5. Enforce the requirement for a surety bond, or other security, to ensure payment or performance under the terms of the lease.	The Yakima Agency is not enforcing procedures that require surety bonds or other security instruments to ensure the payment of Project operation and maintenance charges and the performance of other lease provisions.
6. Take prompt and decisive collection action against the lessor's bond for the nonpayment of irrigation operation and maintenance charges.	Since surety bonds were not required by the Yakima Agency, there is no security against which actions could be taken.
7. Correct the program problems affecting the general ledger accounts receivable balances.	The replacement of the Bureau's accounting system by the Federal Financial System corrected the program problems. However, the effects of prior errors on the Bureau's general ledger accounts receivable balance have not been corrected.
8. Reconcile the general ledger and project subsidiary records for irrigation operation and maintenance receivables and properly maintain the records thereafter.	Deficiencies between the irrigation operation and maintenance receivables in the Bureau's general ledger account and the Project's subsidiary records have not been reconciled.



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, D.C. 20240

SEP 25 1995

RECEIVED
OFFICE OF INSPECTOR GENERAL
IMMEDIATE ACTION

'95 SEP 27 09:53

Memorandum

To: Assistant Inspector General for Audits

From: Ada E. Deer *Ada E. Deer*
Assistant Secretary - Indian Affairs

Subject: OIG Draft Audit W-IN-BIA-O02-94A - Wapato Irrigation Project

The subject audit evaluated whether the Bureau of Indian Affairs (Bureau) identified and collected reimbursable construction costs owed by non-Indians and whether it assessed, billed, and collected annual operation and maintenance (O & M) charges from Wapato Project landowners and water users. Though the report found that the Project collected construction costs in a timely manner, it found the Bureau had not taken actions necessary to levy or collect adequate O & M charges or to ensure proper maintenance of Project facilities and equipment. Our responses to the draft audit report recommendations are included below:

Recommendation 1: The Wapato Project Office (should be required) to develop a comprehensive inventory of facilities and equipment and Project budgets and assessment rates which include accurate estimates of the full costs of properly operating, maintaining, rehabilitating, and replacing the Project's infrastructure. These estimates should include costs for capital improvements, contingencies, and equipment replacement. The Portland Area Office should provide the oversight and technical assistance needed to ensure that these documents and estimates are prepared by the Project Office.

Response: The Bureau concurs. The Project Office will inventory Project equipment and will assign each element a replacement date and an estimate of replacement costs. The Project will develop an adjusted O & M assessment rate for the 1996 irrigation season in consultation with the water users. The rate will be sufficient to cover immediate operations expenses.

Responsible Official: Ernest Clark
Project Administrator

Due Date: November 1995

For longer term Project management, Project facilities will be inventoried and design studies will be initiated as required to include establishment of replacement date, replacement cost and design for repair and maintenance of Project facilities. On August 21, 1995, the Bureau's Deputy Commissioner authorized the Office of Trust Responsibilities to establish a Power and Irrigation Reconciliation Team (PIRT) to determine asset valuations and to develop a business operating plan for each irrigation project, as well as to reconcile project accounts (Attachment A) . The Portland Area Office will support the PIRT effort, as described in their Corrective Action Plan (Attachment B, page 1) .

Responsible Officials: Joe Davis, PIRT Leader

Ernest Clark
Project Administrator

Due Date: Initiate Wapato Project in
January 1996 and continue
effort through December 1997

To record the plant and equipment inventory and to support rate setting for irrigation services, the Bureau will develop a real property and equipment accountability module in its National Irrigation Information and Management System (NIIMS) The real property module will:

- Identify and record plant and equipment assets.
- Record service life factors to
 - a) Plan plant and equipment maintenance and replacement
 - b) Set rates adequate to accumulate funds to finance the servicing
 - c) Schedule staff and resources adequate to execute maintenance tasks.
- Recognize collections and allot funds to capital reserves to finance maintenance and replacement efforts.

The Bureau's Office of Trust Responsibilities will work with the Portland Area Office and all irrigation projects to establish a policy for defining the amount of contingency funds needed for each project.

Responsible Official: John Williamson, Chief
Irrigation and Power Liaison
and Compliance Section

Due Date: December 1997

Recommendation 2. The Project Office, with technical assistance from the Portland Area Office, (should be required) to establish and fund reserve accounts for capital improvements, contingencies, and equipment replacement.

Response: The Bureau concurs. In September 1995, the Bureau will publish a draft revised 25 CFR 171: Irrigation Operation and Maintenance, to establish the Bureau's authority to levy rates for irrigation services which are adequate to recover the total cost for system operations, including funding for contingencies. The Bureau expects to publish the Final Rule during April 1996.

To implement the rule, the Bureau is revising the BIA Manual to replace portions of the current 55 BIAM: Land Operations, which defines irrigation procedures, with 48 BIAM: Irrigation. 48 BIAM will define procedures for assessing and levying charges for irrigation services and for billing and collecting irrigation fees. The revised manual will make no provision for the current practice of filing bills rather than mailing to the responsible water user if the mailing address is not current. The Bureau will issue 48 BIAM to incorporate the revised 25 CFR 171 during June 1996.

Responsible Official:	Ross Mooney Division of Water and Land Resources
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Due Date:	June 1996
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When the PIRT staff, the Portland Area Office and the Project staff develop a business plan for the Project's operations (Attachment B), they will recommend rates which will be adequate to fund the reserve accounts. Implementation of the NIIMS real property and equipment module will accommodate the establishment of reserve accounts.

Recommendation 3 The Project Office (should be required) to comply with Departmental billing regulations and procedures, which require that all owners or water users of Project lands be billed annual operation and maintenance charges. In this regard, the Yakima Agency should be required to provide the current names and addresses of all Project landowners and lessees to Project personnel before the beginning of each irrigation season.

Response: The Bureau concurs. NIIMS has provided billing support to the Wapato Project for the last two years. Every tract of land in the Wapato Project is identified and assessed from the NIIMS billing module. In order to verify the names and addresses of Project landowners and lessees prior to generating bills, NIIMS generates a proof report which lists the tracts of land, identified by unit serial number, and the land owner, lessee or otherwise designated agent responsible for making payment for O & M assessments for that tract of land. NIIMS can

support multiple heirship records to identify multiple owners who share interest in each tract of land. The report will be provided to the Yakima Agency for verification prior to bill generation and mailing. To benefit from this NIIMS utility, the Yakima Agency will enter the multiple ownership data into the NIIMS database prior to the 1996 billing cycle. Further, the Area Realty Officer is developing an interface to automate verification of ownership records for the NIIMS database from the Area's land records database (Attachment B, page 2) .

Responsible Official: Ernest Clark
Project Administrator

Due Date: November 1995

We consider this finding implemented.

Recommendation 4: The Portland Area Office (should be required) to develop a formalized plan, with target dates, for collecting the approximately \$6.5 million of delinquent operation and maintenance charges owed to the Project.

Response: The Bureau concurs. The Portland Area Office will continue its efforts to collect delinquent fee accounts and promissory notes. They will verify vendor address and ownership records; submit a list of vendors responsible for payment of irrigation O & M assessments to a debt collection contractor to initiate debt collection action; and submit those accounts returned from the debt collection contractor to the Solicitor's Office for legal action if appropriate (Attachment B, page 2) . The Area will withhold approval of the Yakima Tribal budget unless the budget includes a provision for payment of the Tribe's delinquent accounts. In cases where individual owners have not made payment, the Area will review the availability of funds in the owner's Individual Indian Money (IIM) account(s) and collect the delinquent fees from the owner's IIM account(s) in compliance with the Debt Collection Act of 1982 and using the procedures defined in 25 CFR 115.09 and 115.10.

Responsible Official: Louis Hilderbrand
Portland Area General Engineer

Due Date: October 1995

We consider this finding implemented.

Recommendation 5: Project personnel (should be required) to enforce debt collection procedures and to terminate water deliveries to lands on which there are delinquent operation and maintenance charges.

Response: In order to improve communication between the Irrigation Billing Section and the Agency Realty Section regarding billings and collections, the Area Director moved the

Irrigation Billing Section to the Yakima Agency in May 1995. The communication is further enhanced by NIIMS, which provides the Project Administrator a report of delinquent accounts along with an identifier for the affected tracts of land. The Project refuses water delivery to those tracts of land unless the land is leased to a new lessee not responsible for the prior debt. In that case, the Portland Area Office will refer the prior lessee's unpaid O & M assessments to the debt collection contractor for collection. The Agency will not open new leases with delinquent lessees. If the contractor cannot collect the delinquent fees, the Area will review the availability of funds in the beneficiary's Individual Indian Money (IIM) accounts and collect the delinquent funds from the beneficiary's IIM account in compliance with the Debt Collection Act of 1982 and using the procedures defined in 25 CFR 115.09 and 115.10. We consider this finding implemented.

Recommendation 6: Yakima Agency Realty personnel (should be required) to enforce surety bonding or other security requirements and not to lease lands or renew leases when delinquent operation and maintenance charges are owed by the lessees.

Response: The Bureau concurs. On August 24, 1994, the Portland Area Director issued a memo (Attachment C) directing the Agency Superintendent to require Letters of Credit from lessees of Project lands. To notify the Agency when a Letter of Credit should be invoked, NIIMS provides a report of delinquent accounts along with an identifier for the affected tracts of land. We consider this finding implemented.

Attachments

PROJECT PLAN

RECONCILIATION OF IRRIGATION AND POWER RECORDS

SECTION I. Objective and Scope

Implementation of the plan will resolve the material weaknesses identified in the Office of Inspector General (OIG) Audit Reports:

- . Operation and Maintenance Assessments of Indian Irrigation Projects, Bureau of Indian Affairs, February 1988, and
 - . Repayment of Investment in Indian Irrigation Projects, Bureau of Indian Affairs, January 1989.
 - . Repayment of the Federal Investment in the Flathead Indian Irrigation Project, Bureau of Indian Affairs, March, 1994.
- Wapato Irrigation Project, Bureau of Indian Affairs,
Preliminary Draft Report, Pending publication in Draft.

This will be accomplished through the reconciliation of the Irrigation and Power records, including validation of the construction debt to be repaid to the U.S. Government, and complete the implementation of the Bureau's National Irrigation Management Information System (NIIMS). This will include each of the three Power and 18 Irrigation entities currently operating within the Bureau which collect water and power user fees and having construction debt repayment provisions. The Power and Irrigation Reconciliation Team (PIRT) will carryout and administer the process through to completion.

Section II. Approach

Under the direction of the Office of Trust Responsibilities (OTR), PIRT will consist of staff from OTR, Division of Accounting Management, Office of the Inspector General, Office of Audits and Evaluation, and staff from other Departmental bureaus and offices With experience in the conduct and operation of the work" required to accomplish the objectives of the project. Mr. Joe Davis of the Irrigation and Power Liaison Compliance Section will supervise the project staff. Funds for this project, which is estimated to cover a maximum three year period, are available and authorized.

The project team will be divided into groups to- perform on-site reconciliations; coordinate interface with the Bureau's accounting and 'budgeting systems; and, to revise regulations and policy guidance. Tasks and outputs will be identified to meet predetermined due dates. Status reports will be prepared and submitted to the Director, OTR by the Project Leader on a monthly basis for the first six months of the project and quarterly basis thereafter, as deemed necessary by the Director.

PROJECT PLAN

The team will develop a survey plan prior to proceeding with the detailed work at each project location. The survey plan will provide an estimate of the cost and time for gathering background data for purposes of developing a detailed work plan for that **particular project**. After completion of the project Survey, the project leader will approve the actual work to be accomplished, with staff assignments and due dates. Work may be concurrent or sequential (successive) pending staff resource availability and project complexity as assessed by the project leader and the Director.

SECTION III. TASKS

The following are the major tasks to be addressed by the project team:

- (1) Review and reconcile each irrigation project and Power project to provide validated account balances in the appropriate subsidiary and control accounts of the Bureau. Under this tack, the team will conduct the following on-site, at each project:
 - o review and updating of subsidiary and control account balances;
 - o review and updating, if necessary; of designation reports;
 - o review and reconciliation of Federal capital investment (construction debt) and Operations and Maintenance (O&M) debt;
 - o review and reconciliation of repayment contracts of construction debt and update repayment contracts for approval, if required;
 - o review and reconciliation of the operation and maintenance assessment and update the rate schedules to conform with regulations, if required;
 - o develop recommendations for cancellation of construction and/or O&M debt and O&M assessment balance, where appropriate;
 - o review and reconcile land records and determine probability and legality of collection of amounts due the Bureau and/or the Federal Government;
 - o assemble accounting and operating procedures and manuals for permanent retention at each Project;
 - o provide training to designated BIA, Project, or Tribal personnel, when requested.

PROJECT PLAN

- (2) Identify and resolve project asset valuations and depreciation issues
- (3) Develop a business operation plan for each Project to ensure a basis for sustained successful project operation.
 - o Project accounting and operating procedures and manuals
 - o Project training plans;

SECTION IV. Proposed Project Schedule

Below is the tentative schedule for the first

<u>PROJECT NAME</u>	<u>Estimated Start Date</u>	<u>Est. Staffing Person/Mcnth</u>
Flathead Irrigation & Power Project (Irrigation)	09/01/95	2
Flathead Irrigation & Power Project (Power)	09/01/95	2
San Carlos Irrigation Project (power)	11/01/95	2
San Carlos Irrigation Project (Irrigation)	11/01/95	2
Colorado River Irrigation Project	11/01/95	4
Wapato Irrigation Project	01/01/96	8
Blackfeet Irrigation Project	05/01/96	2
Fort Peck Irrigation Project	.05/01/96	2
Fort Belknap Irrigation Project	07/01/96	2
Crow Irrigation Project	07/01/96	2
Wind River Irrigation Project	09/01/96	2
Phoenix Area Irrigation Projects	11/01/96	4


* Note: Estimated completion dates not included at this time due to uncertainty of staffing availability. Also, estimated **staffing (Person/Months) to complete each project is dependent** on the availability, quantity of records, etc. at each project.

PROJECT PLAN

Section V: Anticipated Staffing

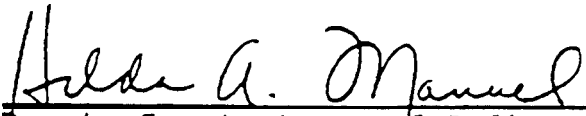
Below is a preliminary list of BIA/ASIA personnel that have been identified with the experience to immediately start the project tasks. To expedite the objectives of the team, additional staffing shall include personnel from other Department bureaus for qualified personnel familiar with the Bureau's irrigation and power operations:

- Joe Davis, Systems Accountant, IPLCS, (Project Leader), BIA
- Bob Dobson, Accountant, IPLCS, BIA
- Andy Abeyta, Management Analyst, IPLCS, BIA
- Jackie Bouck, Management Analyst, Office of Audit & Evaluation, ASIA
- Steve Barnhart, Accountant, Division of Accounting Management, BIA

Acting 
Director, Office of Trust Responsibilities

8-9-95
Date

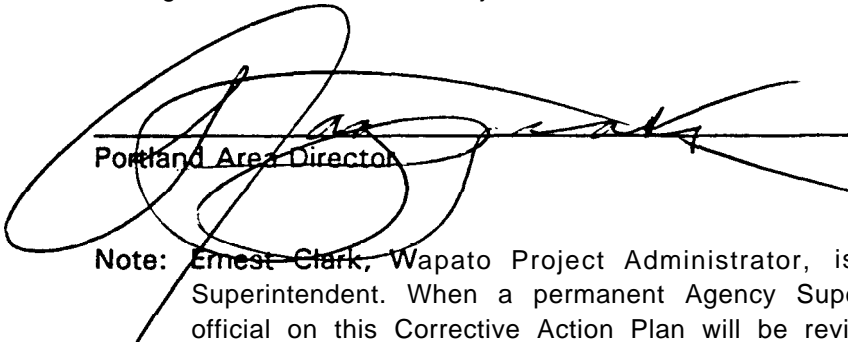
Concurrence:


Deputy Commissioner of Indian Affairs

8/21/95
Date

OIG Draft Audit W-IN-BIA-002-94A - Wapato Irrigation Project
Bureau of Indian Affairs - Portland Area Office
Corrective Action Plan

The Bureau of Indian Affairs, Portland Area Office, will execute the following tasks to correct findings identified in the subject audit.



Portland Area Director

Note: Ernest Clark, Wapato Project Administrator, is currently Acting Yakima Agency Superintendent. When a permanent Agency Superintendent is hired, the responsible official on this Corrective Action Plan will be revised to replace Mr. Clark.

<u>Task</u>	<u>Official</u>	<u>Due Date</u>
Response 1- recover full cost of operating and maintaining the irrigation system		
Inventory Project equipment and estimate replacement schedules and costs	Ernest Clark Project Administrator	June 1996
Develop an adjusted O & M assessment rate in time for the 1996 irrigation season	Ernest Clark Project Administrator	November 1995
Initiate R & B design studies to include replacement schedules and costs	Ernest Clark Project Administrator	June 1996
Participate with PIRT staff on all tasks, including reconciliation of O & M account balances, inventory of plant and equipment, and maintenance planning	Ernest Clark Project Administrator	Through December 1997
Establish a policy to determine the amount of contingency funds needed for each project (along with all other Bureau projects)	Louis Hilderbrand Area Irrigation Engineer	June 1996

Corrective Action Plan - continued

Task	Official	<u>Due Date</u>
(Response 1- continued)		
Develop a plan to create the needed reserve	Ernest Clark Project Administrator	June 1996
Response 2- establish and fund reserve accounts		
Adjust assessment rates to fund reserve accounts	Ernest Clark Project Administrator	December 1997
Response 3- comply with billing regulations		
Enter ownership and lessee data into NIIMS database	Ernest Clark Acting Agency Superintendent	January 1996
Develop interface to export data from Land Records database to NIIMS billing and collection database	Ernest Clark Acting Agency Superintendent	November 1995
Send bills to correct owner(s) or lessees, including multiple owners	Ernest Clark Acting Agency Superintendent	March 1996
Response 4- To the extent possible, recover \$6.5 million O & M assessments <i>in</i> arrears		
Verify owner or lessee address and records; mail bills and follow-up demand letters	Ernest Clark Acting Agency Superintendent	March 1996 with demand letters as appropriate
Submit list of delinquent vendors to debt collection contractor	Louis Hildebrand Area Irrigation Engineer	October 1995 and monthly thereafter
Review availability of funds in IIM accounts; pay irrigation assessments from IIM accounts	Ernest Clark Acting Agency Superintendent	November 1996

Corrective Action Plan - continued

<u>Task</u>	<u>Official</u>	<u>Due Date</u>
(Response 4 - continued)		
Review Tribal budgets for payment of irrigation assessments; withhold approval of Tribal budgets pending payment	Ernest Clark Acting Agency Superintendent	November 1996
Response 5- enforce debt collection procedures, including termination of water delivery		
Issue memo to make lease renewal contingent on being current on payment of irrigation assessments	Stanley Speaks Area Director	October 1995
Provide list of delinquent Trust accounts to Agency Realty Officer	Ernest Clark Project Administrator	October 1995 and monthly thereafter
Refuse water delivery to delinquent lessees pending payment of irrigation assessments	Ernest Clark Project Administrator	Current procedure
Response 6- enforce surety bonding		
Finding implemented.		
Required Reporting		
Submit a statement of Corrective Action Plan implementation for the Secretary's Semi-Annual Report to Congress on Audit Follow-up through DOI - Office of Audit and Evaluation	Louis Hilderbrand Area Irrigation Engineer	October 1, 1995 March 1, 1996 and every six months thereafter until audit is implemented ..-

AUG 24 1994

ACTING

Portland Area Director

Modification of Lease Documents, Letters of Credit

Superintendent, Yakima Agency

Following discussions with, and input from, Wapato Irrigation Project (WIP) and Agency staff; the Yakama Nation's Lands, Roads, and Irrigation Committee; and representatives of the Yakama Reservation Irrigation District, implementation of the policy requiring Letters of Credit for all leases involving WIP lands has been revised. Commencing immediately, all leases involving Project land which will be in force on, or following, January 1, 1995, will contain contract terms requiring:

1. Full payment of the current annual operation and maintenance (O&M) assessments on each parcel of Project land in the lease at the same time the lease payment is made

or

2. The execution of an irrevocable Letter of Credit for the full amount of the annual O&M assessment. The full payment of O&M will be due on April 1, 1994. The date of lease payment is not changed.

The following will be added to the lease as a Special Condition:

Lessee agrees to secure the annual payment of operation and maintenance assessments under Lease Provision Number 3 by obtaining an irrevocable letter of credit in sufficient amount to cover the annual amount of said charges. The letter of credit shall name the 131A as Payee, and shall specify that Payee may draw upon the letter of credit on presentation of a written statement that Lessee has failed to perform under Lease Provision Number 3. Lessee herein agrees that failure to renew a letter of credit within 30 days following any "BIA draw pursuant to this clause shall constitute separate breach of the terms of this Lease.

The intent of the requirement for a Letter of Credit is to- secure payment of the Project's O&M assessment from lease holder in the event payments are not provided voluntarily.

Failure to provide full payment of O&M at the time the lease payment is due, or to provide a satisfactory Letter of Credit, will be a breach of the lease terms and will result in cancellation under 25 CFR Part 162.

It is within the discretion of the Superintendent to waive the requirement for payment of the O&M assessment, or execution of a Letter of Credit, at the time the lease is made final if the lessee is determined to be in good standing. Good standing is defined as not having a history of delinquent O&M assessment of any duration on either leased *or* fee land.

The individuals not in good standing at the initiation of a lease may change their status through the following process:

The lessee may apply to the Superintendent for a waiver to allow payment of O&M assessments on April 1 of the next contract year with no Letter of Credit security requirement if, during the previous two years of the lease, there has been acceptable performance of all terms under any lease. As a prerequisite to any valid request for a waiver, the lessee must be in good standing *in* the operation of any Indian leases and must demonstrate to the Superintendents satisfaction that none of the lessee's O&M and other lease payments for any lease of Indian lands are delinquent. The decision to grant an annual waiver is vested exclusively in the discretion of the Superintendent, and may not be challenged or otherwise appealed by the lessee. .

Contact Tom Crooks, Area General Engineer, at (503) 231-6178, if there are any questions.

RONALD J. EGGERS

cc: Michael E. Drais, Attorney

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STATUS OF AUDIT REPORT RECOMMENDATIONS

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
1, 2, 3, 4, 5, and 6	Resolved; not implemented	No further response to the Office of Inspector General is required. The recommendations will be referred to the Assistant Secretary for Policy, Management and Budget for tracking of implementation.

**ILLEGAL OR WASTEFUL ACTIVITIES
SHOULD BE REPORTED TO
THE OFFICE OF INSPECTOR GENERAL BY:**

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