



COLORADO RIVER INDIAN TRIBES

Colorado River Indian Reservation

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May 12, 2026

Leslie Underwood

Program Specialist

Bureau of Indian Affairs

Office of Trust Services

Division of Water and Power

via email: comments@bia.gov

RE: Rate Adjustments for Indian Irrigation Projects—91 Fed. Reg. 13856

Dear Ms. Underwood:

The Colorado River Indian Tribes (“CRIT” or “Tribes”) is a federally recognized Indian tribe entitled to the services and benefits, and federal trust, provided by the United States because of their status as a sovereign nation. 91 Fed. Reg. 4102 (Jan. 30, 2026). Water is sacred to the CRIT. Our Ancestors have been farming along the banks of the Colorado River in Arizona and California since time immemorial. This agricultural heritage continues to be central to our identity and economy, making the proper functioning of the Colorado River Indian Irrigation Project (“CRIIP”) essential to the Tribes’ spiritual and physical well-being and current and future prosperity. This letter provides comments on the BIA Division of Water and Power’s proposed operations and maintenance (“O&M”) rates for 2027. 91 Fed. Reg. 13856 (Mar. 23, 2026.)

The BIA should not adopt the proposed increase O&M rates for the CRIIP for the reasons stated below.

- O&M rates for the delivery of water have increased, but the level of service for reliable water delivery has decreased.
- BIA needs to be more transparent with CRIT and the farmers that pay O&M rates regarding where the money for O&M rates goes, and what the justification is for paying higher rates.
- If more or newer equipment is needed, BIA should explain why, especially if cuts to staffing levels mean that there are fewer people available to operate the equipment due to staffing cuts and unfilled positions.

- The BIA needs to grant an exemption to any hiring freeze to the Colorado River Agency to fill these essential positions.
- BIA should grant the Colorado River Agency delegated hiring authority to fill all available positions. CRIT wants to see the Colorado River Agency be able to actually fill the positions, or contract outside of the federal government hiring process to fill positions for irrigation systems operators.

CRIT appreciates the BIA meeting with the CRIT Tribal Council regarding the proposed 2027 CRIIP O&M on December 11, 2025, and January 16, 2026. Responding to CRIT's requests for consultation is a step forward in BIA's implementation of its trust responsibility toward CRIT, and BIA's duty to operate and maintain the CRIIP in trust for the CRIT. Part of meaningful consultation with CRIT is providing complete information ahead of time. While BIA provided more information this year than in the past, which is appreciated, CRIT sent BIA questions based on the regulations which have not been answered. We are concerned that BIA hasn't been doing the analysis required in the regulations, because BIA has not been able to provide the information requested. BIA should assign an economist or accountant to the CRA to perform this analysis. CRIT has consistently raised concerns with the Department of the Interior ("DOI") and BIA about low staffing levels, the need for funding from sources other than O&M rates, and the need for more reliable water service. Our prior letters still await a response.

We want to be clear that we recognize how much the BIA, Colorado River Agency, and DOI Office of the Solicitor have suffered from staffing and budget cuts. We appreciate the dedicated, hardworking and under-resourced staff who remain.

The CRIIP has three major problems related to operations and management that the Division of Water and Power has not yet addressed. First, BIA has allowed the CRIIP to deteriorate over years of failing to adequately provide for its maintenance. Around 2023, the BIA estimated that the cost of addressing deferred maintenance on the CRIIP exceeded \$145 million. Second, BIA has historically held O&M rates lower than the amount necessary to maintain the CRIIP. Now, BIA is rapidly increasing O&M rates, which has enormous impacts on the ability of CRIT farmers to absorb the cost of maintaining a dilapidated irrigation system. Third, BIA has not been able to attract and retain enough employees to operate and maintain the CRIIP.

Although BIA has increased the O&M rates for CRIIP water users by over 20% in the last two years, CRIT has not seen a corresponding increase in the quality or value of services the BIA provides. Moreover, BIA reported to Tribal Council that two-thirds of its employee positions are vacant with no plan to fill them. Vacant positions for key systems needed to operate and maintain a reliable water delivery system is a serious issue for CRIT and creates substantial liability for BIA if the system fails.

I. Background on CRIIP O&M

The Colorado River Indian Reservation (“Reservation”) is served by the CRIIP, the oldest Indian irrigation project in the United States. The CRIIP is administered by the Colorado River Agency (“CRA”), which has been severely understaffed and underfunded for many years. Despite the best efforts of the CRA on a shoestring budget, decades of deferred maintenance have left the CRIIP in a crippled state of disrepair. Federal estimates value the backlog of maintenance activities at more than \$145 million. This estimate is low and not adjusted for inflation or rising costs of labor and supplies. The likely cost of addressing the deferred maintenance backlog (not routine O&M) is probably more than double that amount. That deferred maintenance and understaffing negatively impacts CRIIP system efficiency and the reliability of water delivery. It creates safety risks and threatens CRIT’s economic security. Additionally, resolving the substantial deferred maintenance does not begin to address necessary upgrades to modernize the CRIIP, including automation such as an improved Supervisory Control and Data Acquisition system to address BIA’s limited human resources capacity.

The purpose of the CRIIP is to “provide irrigation water” for CRIT’s reservation. Operation and Maintenance Guidelines: Colorado River Irrigation Project (“O&M Guidelines”, May 29, 2007). “The viability of the Reservation’s predominantly agricultural economy is critically dependent on the CRIIP.” *Ibid.* BIA “has an obligation to deliver an equitable share of the irrigation water available” to CRIIP system customers. *Oswalt v. U.S.*, 85 Fed. Cl. 153 (2008).

BIA’s regulations for Irrigation Operation and Maintenance are stated in Part 171 of Title 25 of the Code of Federal Regulations (25 C.F.R. Part 171). An “irrigation facility” includes “all structures and appurtenant works for the delivery, diversion, and storage of irrigation water.” 25 C.F.R. 171.100. According to the regulations, BIA administers irrigation facilities “by enforcing the applicable statutes, regulations, Executive Orders, directives, Indian Affairs Manual, the Irrigation Handbook, and other written policies, procedures, directives, and practices....” 25 C.F.R. 171.100(a). Each of these documents establish BIA’s authorities and duties. BIA must “ensure the safe, reliable, and efficient administration, operation, maintenance, and rehabilitation of [its] facilities.” *Ibid.* The CRIIP is not safe, reliable, or efficient.

Further, the BIA is ultimately responsible for maintaining each structure on the BIA irrigation project, regardless of whether BIA requires another entity to maintain it, unless a written agreement that complies with 25 C.F.R. 171.405 is executed. 25 C.F.R. 171.400. BIA has not maintained each structure on the CRIIP in a safe, reliable, or efficient manner.

To calculate the annual O&M rates, the BIA must analyze eleven categories of costs and divide the total O&M estimated cost by the assessable acres for an irrigation facility. 25 C.F.R. 171.500(a). The eleven categories of costs that must be estimated are: (1) personnel; (2) materials and supplies; (3) vehicle and equipment repairs; (4) equipment costs; (5) depreciation; (6) acquisition costs; (7) a contingency reserve fund; (8) a vehicle and heavy equipment replacement fund; (9) rehabilitation and replacement of facilities; (10) unknown cost

contingencies; and (11) other costs BIA determines necessary. *Ibid.* BIA must determine the O&M rate each year. O&M Guidelines, 1-11. BIA must also submit an annual O&M report to the Superintendent, an annual O&M maintenance report, and an annual O&M budget plan to the Regional Irrigation Engineer that follows guidelines outlined in the Irrigation Handbook (“Handbook”). O&M Guidelines 1-14 – 1-15. To support BIA’s planning and reporting, “the CRIT Water Resources Department and the Irrigation Engineer provide data collection, construction planning and irrigation system rehabilitation services for BIA.” O&M Guidelines, 1-16. “Indian Irrigation Project Managers/Engineers are responsible for... determining rehabilitation and construction requirements of project facilities [and] developing and monitoring the annual operation, maintenance, and rehabilitation budget for the project.” 50 IAM 1, 1.5(L).

The Tribes recognize that the CRA has provided more information to CRIT this year than in prior years, which is appreciated. However, full compliance with the Code of Federal Regulations is expected, because it increases transparency and shows CRIT and the farmers who pay for the system where their money goes. CRIT requests the information that supports BIA's determination for each of these 11 categories, as well as the annual O&M report, the annual O&M maintenance report, and the annual O&M budget plan. If CRIT does not receive these documents, which should have already been prepared, within 30 days, CRIT may be forced to file a Freedom of Information Act request.

Although Congress directed the BIA to “finalize new standard operating procedures for the Colorado River Irrigation Project by no later than December 31, 2020” it does not appear that BIA did so. Consolidated Appropriations Act, 2021, H.R. 133, Pub. L. 116-260, House Committee on Appropriations, 117th Cong., 1st Sess. (Mar. 2021), p. 1381. The latest available version of the Colorado River Agency’s Operations Manual was approved by the Western Area Region Director on 9/5/2013 (effective 9/11/2013).

II. BIA Should Not Adopt the Proposed CRIIP O&M Fees

In response to BIA’s presentation on January 16, 2026, CRIT wrote:

the Tribes request that: (3) BIA not adopt an O&M fee increase of \$93/ acre foot in 2027, which is a 9% increase over the 2026 rate of \$85, and instead adopt a lower percentage increase for 2027. Note that between 2005 and 2024 the rate only increased from \$47 to \$64 (a 30% increase over 19 years), but the rate increased to \$69 in 2025, then jumped to \$85 in 2026 (a 20.7% increase). An increase to \$93 in 2027 (another 9% increase) is almost another 30% increase in just two years.

It appears that BIA is attempting to “catch up” on rate increases that it should have gradually adopted between 2005 and 2024. While CRIT agrees that O&M rates may need to rise to reflect reasonable and adequate expenses for the delivery of water to customers, it is not

reasonable for BIA to make up for nearly two decades of lack of appropriate calculations by impacting the livelihoods of CRIT farmers with 30% rates increases over three years.

It is not the farmers' fault that the O&M rates were not managed incrementally, and the proposed increase of \$7 per acre for higher water delivery costs is significant for a farmer's budget. A rough calculation is instructive. Across CRIT's approximately 80,000 acres of actively farmed agriculture, the proposed increase amounts to roughly \$560,000 more every year just to move the same amount of water around for crops. It is also not the farmers' fault that the CRIIP has so much deferred maintenance and inefficiency that it costs BIA far more annually to operate and maintain than if the CRIIP were a well maintained and continually modernized system. The proposed rate increase to \$93 per acre is not reasonable.

III. BIA Must Develop a Strategic Rate Setting Plan to Catch Up

In response to BIA's presentation on January 16, 2026, CRIT wrote:

the Tribes request that: (2) BIA develop a 5-year O&M rate setting plan and share it with CRIT and irrigation customers for feedback. The rate setting plan should incorporate steady rate increases at a set percentage so farmers can plan and budget ahead of time. The plan should also explain how higher rates equate to higher levels of service.

To blunt the year-over-year impacts of large rate increases on CRIT farmers, which are currently compounded by global price instability and international relations that increase the cost of inputs like fertilizer, BIA needs to develop a strategic approach to making the O&M rate consistent with the CRIIP's O&M costs. However, ongoing O&M costs are different than costs that are necessary to address the substantial deferred maintenance, and the BIA should not transfer the relatively higher burden of maintaining a deteriorating CRIIP (through deferred maintenance) onto CRIT farmers.

The funds for addressing CRIIP deferred maintenance, and for bridging the gap between the cost of operating the system in its current state versus in a maintained and modern state should be sourced outside of the O&M rates. A 5-year rate setting plan can also help provide the foundation for BIA to ensure that deferred maintenance is addressed in a timely manner.

IV. BIA Must Attract and Retain Employees

It is unacceptable that two-thirds of the CRA employee positions are vacant. Many of those positions are in operations and maintenance on the CRIIP system. These positions are essential and should be exempt from any hiring freeze. The CRA is being put in a difficult decision to choose between allocating staff time to water delivery or maintenance efforts, when there is a legal obligation for CRA to perform both tasks. Particularly in its current state of disrepair, further reducing the system's safety and reliability by not having key personnel is a major disaster waiting to happen. The positions are budgeted and funded. They need to be filled.

The Tribes recognize that the CRA has worked hard to fill these positions, but it is difficult to hire people to do these tough jobs. BIA needs to help.

If the problem is that BIA does not pay enough to make the job attractive, the solution is simple—raise wages for these critical jobs. If the problem is that BIA cannot find people with the education and qualifications for the job, the solutions are simple—hire people and train them. If BIA is unable to move quickly enough to hire qualified applicants, it should grant CRA more flexibility and delegate hiring authority to fill these essential positions. BIA should also consider whether contracting for Irrigation System Operators is feasible.

This underemployment has been a problem for years, and the limitations placed on CRA unfairly restrain the agency from performing the way it needs to in order to serve the Tribes.

V. CRIT's Farming Operation, 'Amat Kuhwely

In December 2024, CRIT announced a \$23 million investment from Indigena Capital to upgrade and expand CRIT's farming operation. The modernized farm, 'Amat Kuhwely, will help the Tribe continue to expand its farming operations. This over 34,000-acre farm provides food, fiber, and forage to fuel America. Reliable water delivery through the CRIIP is necessary for this major farming company to fulfill its promise of economic growth for the Tribes and their people. When the CRIIP lacks people to open and close canal gates to deliver water, maintain the canals to keep water flowing, or funding to improve the system, then CRIT's farm 'Amat Kuhwely and CRIT's economy are continuously damaged.

CRIT is increasing its consumptive use and plans to use all of its water rights, while remaining open to conservation and partnership opportunities. CRIT's farm, 'Amat Kuhwely, may have ordered water that is not being delivered on a timely basis. When water delivery is routinely delayed due to lack of staffing, it can delay planting windows which in turn delays crop harvests, and thus reduces revenues for the Tribe, 'Amat Kuhwely, and local farmers. Those revenues support people's livelihoods, government, healthcare, cultural programs, youth programs, and other social systems that are necessary for CRIT's existence. BIA's inability to consistently deliver CRIT's water, which is one of CRIT's trust assets, through the decrepit CRIIP could be a violation of the U.S. Government's federal trust duty to CRIT.

VI. Conclusion

These water resources that flow through the canals of the CRIIP are CRIT's sacred water resources, which the CRIIP manages in trust via BIA for CRIT's benefit. Not only is the water CRIT's trust asset, CRIT is by far the largest ratepayer on the CRIIP system. BIA has a duty to work with CRIT to balance the competing priorities of rehabilitating the CRIIP and maintaining O&M rates in a manner that does not unduly burden CRIIP water users.

Please respond in writing to explain how BIA will address these concerns and include CRIT Water Counsel Holly Roberson at hroberson@kmtg.com in your response. We also request

a meeting with BIA before the end of the comment period on May 22, 2026. For scheduling, please contact Assistant to the Executive Secretary Joanna Laffoon at joanna.laffoon@crit-nsn.gov **and** Executive Secretary Tashina Harper at tashina.harper@crit-nsn.gov.

Respectfully,

COLORADO RIVER INDIAN TRIBES



Amelia Flores
Chairwoman

CC:

CRIT Tribal Council

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