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Compensation to Fort Berthold Indians, North Dakota, for Lands Taken in Connection with the Garrison Dam Project

United States Congress

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COMPENSATION TO FORT BERTHOLD INDIANS, NORTH
DAKOTA, FOR LANDS TAKEN IN CONNECTION WITH
THE GARRISON DAM PROJECT

OCTOBER 19, 1949.—Ordered to be printed

Mr. MORRIS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. J. Res. 33]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H. J. Res. 33) providing for the ratification by Congress of a contract for the purchase of certain Indian lands by the United States from the Three Affiliated Tribes of Fort Berthold Reservation, North Dakota, and for other related purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 2 and to the amendment of the Senate to the title of the joint resolution, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

In lieu of the matter inserted by the Senate amendment insert the following: *That, if within six months from the date of its enactment the Three Affiliated Tribes of the Fort Berthold Reservation accept the provisions of this Act by an affirmative vote of a majority of the adult members, the sums herein provided for shall be made available as herein specified; and all right, title and interest of said tribes, allottees and heirs of allottees in and to the lands constituting the Taking Area described in section 15 (including all elements of value above or below the surface) shall vest in the United States of America.*

SEC. 2. *The fund of \$5,105,625 appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, Eightieth Congress), shall not lapse into the Treasury as provided therein, but shall be available*

for disbursement under the direction of the Commissioner of Indian Affairs, Bureau of Indian Affairs, United States Department of the Interior (hereinafter called the "Commissioner") for the following purposes:

(a) Payment for tribal and allotted Indian lands and improvements, including heirship interests, and values above and below the surface, within the Taking Area:

(b) Costs of relocating and reestablishing the members of the tribes who reside within the Taking Area; and

(c) Costs of relocating and reestablishing Indian cemeteries, tribal monuments, and shrines within the Taking Area.

Any unexpended balance remaining from the said fund of \$5,105,625 after the completion of the purposes set forth in subsections (a), (b), and (c) shall remain in the Treasury to the credit of the tribes.

SEC. 3. There is hereby established a board of appraisal which shall consist of one member designated by the Secretary of Agriculture, one member designated by the Secretary of the Interior, and one member designated by the Chief of Engineers. It shall be the duty of the board to prepare an appraisal schedule of the tribal and individual allotted lands and improvements, including heirship interests, located within the Taking Area. In the preparation thereof, the board shall determine the fair value of the land and improvements, giving full and proper weight to the following elements of appraisal: Value of any tract of land, whether full interest or partial interest, including value of standing timber, mineral rights, and the uses to which the lands are reasonably adapted. Upon completion of the said schedule of appraisal it shall be submitted to the Chief of Engineers.

SEC. 4. Upon receipt of such schedule of appraisal by the Chief of Engineers, he shall transmit to the tribal council the schedule of appraisal in its entirety and such portions of the said schedule to individual Indians as relate to their respective interests. The tribal council and the interested individual Indians shall have ninety days from the date of receipt of such schedule of appraisal in which to present to the Commissioner their objections, if any, for consideration and action thereon.

SEC. 5. The right of the tribes and of the allottees and heirs of allottees to accept or reject the appraisal covering their respective property is reserved to them. Upon the rejection of the appraisal affecting the lands or the respective interests, the Department of the Army shall institute proceedings in the United States District Court for North Dakota for the purpose of having the just compensation for such property judicially determined. Any judgment entered against the United States in such proceedings shall be charged against the said fund of \$5,105,625: Provided, That if said sum should be inadequate to cover the purposes provided for in section 2 (a), (b) and (c) hereof, and such judgments as may be obtained in such proceedings, then the amount in excess of the said fund of \$5,105,625 shall be paid out of the \$7,500,000 provided for in section 12 hereof.

SEC. 6. In all proceedings instituted in accordance with section 5 of this Act, individual members of the tribes may request the Commissioner of Indian Affairs to designate attorneys of the Bureau of Indian Affairs to represent them.

SEC. 7. The amount determined to be due the individual allottees and other individual Indians shall be deposited to the credit of such individual Indians in their individual Indian money accounts.

SEC. 8. The tribes and the members thereof may salvage, remove, reuse, sell, or otherwise dispose of all or any part of their improvements within the Taking Area without any deduction therefor in the appraisal schedule to be prepared by the Commissioner, subject to the condition that the district engineer, Garrison district, may not enter for the purpose of clearing the said improvements until at least October 1, 1952, and subject further to the condition that the district engineer shall serve notice of such purpose at least three months prior thereto.

SEC. 9. The tribes and the members thereof shall have the privilege of cutting timber and all forest products and removing sand and gravel, and may use, sell, or otherwise dispose of the same until at least October 1, 1950, without any deduction therefor in the appraisal schedule to be prepared by the Commission, subject to the condition that the said date may be adjusted to a later date by the Chief of Engineers on the request of the Commissioner, and subject to the further conditions that the district engineer, Garrison district, shall serve notice of clearing at least three months prior thereto.

SEC. 10. The tribes and the members thereof may remove, sell, or otherwise dispose of lignite until such date as the district engineer, Garrison district, fixes for the impoundment of waters.

SEC. 11. The district engineer, Garrison district, will give notice at least six months in advance of the date on or after which impoundment of waters may begin, and no damage for loss of life or property due to impoundment of waters on or after the date specified in said notice may be claimed. The date established by such notification will not be earlier than October 1, 1952.

SEC. 12. In addition to the \$5,105,625 appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, Eightieth Congress), the further sum of \$7,500,000 less any part thereof that may be required to cover balance due said tribes or allottees or heirs as provided for in section 5 hereof shall, upon acceptance of the provisions of this Act by the tribes, be placed to the credit of the tribes in the Treasury of the United States, which sums notwithstanding anything contained in this Act to the contrary shall be in full satisfaction of (1) all claims, rights, demands and judgments of said tribes or allottees or heirs thereof arising out of this Act and not compensated for out of the said \$5,105,625; (2) and of all other rights, claims, demands and judgments of said tribes, individual allottees or heirs thereof, of any nature whatsoever existing on the date of enactment of this Act, whether of tangible or intangible nature and whether or not cognizable in law or equity in connection with the taking of said land and the construction of said Garrison Dam Project.

SEC. 13. The fund of \$5,105,625, appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, Eightieth Congress), and the fund provided for by section 12 of this Act shall bear interest at 4 per centum per annum from the date of acceptance of this Act until disbursed. No part of either of such funds shall be used for payment of the fees or expenses of any agent, attorney, or other representative of any individual Indian or tribe.

SEC. 14. When electric power is available from Garrison Dam project, the said Three Affiliated Tribes and the members thereof shall have equal rights and privileges on an equal basis which are accorded the persons, cooperative associations and others by the Rural Electrification Act of 1936 and all Acts amendatory thereof or supplemental thereto as fully as

if said tribes and members thereof were named in said Rural Electrification Act of 1936.

SEC. 15. *The Taking Area is described as follows:*

PART A—WITHIN RESERVATION BOUNDARIES

Beginning at the Northwest corner of Section 6, Township 150 North, Range 93 West of the 5th P. M.; thence East to the West sixteenth line; thence South to the East and West quarter line; thence East to center of said Section; thence South to South quarter corner; thence East to the; and the Senate agree to the same.

TOBY MORRIS,
JOHN R. MURDOCK,
WESLEY A. D'EWART,
WM. LEMKE,

Managers on the Part of the House.

ROBERT S. KERR,
ERNEST W. MCFARLAND,
ZALES N. ECTON,
ARTHUR V. WATKINS,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H. J. Res. 33) providing for the ratification by Congress of a contract for the purchase of certain Indian lands by the United States from the three affiliated tribes of Fort Berthold Reservation, N. Dak., and for other related purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments, namely:

Amendment No. 1: Places to the credit of said tribes in the United States Treasury \$7,500,000 in addition to the \$5,105,625 fund appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, 80th Cong.), which sums shall, upon acceptance of the provisions of this joint resolution (H. J. Res. 33) by the tribes, be placed to the credit of said Indians in the Treasury of the United States and bear interest at the rate of 4 percent per annum from the date of such acceptance until disbursed, which sums shall be in full satisfaction of all claims, rights, and demands of said three affiliated tribes arising out of this act, whether of tangible or intangible nature and whether or not cognizable in law or in equity in connection with the taking of the said lands described in the joint resolution and the construction of the said Garrison Dam project, North Dakota.

That no part of the funds so appropriated or authorized to be appropriated shall be used for the payment of fees or expenses of any agent, attorney, or other representatives of any individual Indian or tribe. The attorney or attorneys are being compensated out of other tribal funds.

That a board of appraisal shall be appointed consisting of three members, one member to be designated by the Secretary of Agriculture, one member designated by the Secretary of the Interior, and one member designated by the Chief of Engineers, who shall make appraisements of all elements of damages involved and the schedule of appraisal shall be transmitted to the tribal council and individual Indians as such appraisal affects their respective interests. The tribes and/or any individual Indian or Indians may reject such appraisal within 90 days.

That, if upon rejection of such appraisal, the Department of the Army will institute proceedings in the United States District Court for North Dakota for determination. The individual Indians may request the Commissioner of Indian Affairs to designate attorneys of the Bureau of Indian Affairs to represent them, without charge.

The tribes and the members thereof may use, salvage, remove, reuse, sell, or otherwise dispose of all or any part of their improvements within the taking area without any deduction therefor in the appraisal schedule for a specified time. The district engineer will give notice of at least 6 months in advance of when impoundment of

waters may begin, which date specified in said notice shall not be earlier than October 1, 1953.

Amendment No. 2: The language embodied in amendment No. 1 is a substitute for the language stricken out by amendment No. 2, and the amendment of the Senate to the title of the joint resolution is agreed to.

TOBY MORRIS,
JOHN R. MURDOCK,
WESLEY A. D'EWART,
WM. LEMKE,

Managers on the Part of the House.

