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Letter from James E. Curry to Representative Burdick Regarding US House Resolution 4635, July 8, 1951

James E. Curry

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LAW OFFICE
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JUL 8 1951

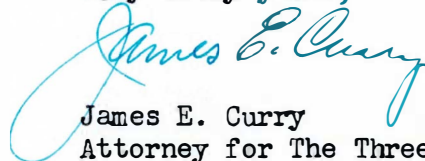
Hon. Usher L. Burdick
House of Representatives
Washington 25, D. C.

Dear Mr. Burdick:

I find that by inadvertence you were not notified of the time of the preliminary hearing on H. R. 4635, which you were good enough to introduce in behalf of the Fort Berthold Indians. I guess it didn't matter too much, because the men were limited to about 15 minutes and the Chairman indicated that a further hearing would be held later. At that time, I hope you will appear in behalf of your constituents at Fort Berthold.

For your information, I am sending you herewith a copy of a statement prepared by Martin Cross, which was delivered by him at the hearing without any substantial change.

Very truly yours,



James E. Curry
Attorney for The Three Affiliated
Tribes of Ft. Berthold Res'n.

STATEMENT OF MARTIN CROSS TO THE
HOUSE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS ON A BILL TO
AMEND ACT NO. 437, 81st CONGRESS, SECOND SESSION.

Act No. 437 of the 81st Congress provided for the taking, with the consent of the Fort Berthold Indians, of a part of their reservation for the Garrison Reservoir. The Indians did not want to give up this land of theirs, which was the small amount left over to them after vast areas had been taken from them by the government during the last century. If they did lose their land, they were anxious that the government should take only those lands, and rights in land, that were actually needed for the operation of the dam and reservoir.

This House Committee on Interior and Insular Affairs voted to approve the bill but complied with the Indians' wish that the government should take no more than necessary for the operation of the reservoir. It provided for reservation to the Indians of the underground rights in the land. It provided that they should have the right to fish in the waters of the reservoir, to graze their cattle on the shores of the lake, and to operate harbors and boats to the extent that it would not prevent the government from operating properly.

For some reason that was not made clear in the record, the bill was changed in the Senate Committee on Interior and Insular Affairs to deprive the Indians of these rights. Other changes were made in the bill which, in our opinion, are not only injurious to the rights of the Indians but create doubt as to the Constitutionality of the bill.

When the bill passed the Senate, the main source of friction was the amount of money provided to be paid to the Indians. We had so much discussion of this question that there was little time or opportunity to discuss these other phases of the bill. Rather than continue the debate, we permitted the bill to be adopted in its present form. But before presenting the bill to the Indians for acceptance, Mr. Whitman, who was then Chairman of the Tribal Council, pointed out to Senator Joseph C. O'Mahoney the defects in the bill, they told him that these defects were written into the bill without full consideration. They said that they were defects that hurt the Indians without creating any advantage for the project or for the government. They asked him, if the bill were accepted as written, whether these defects could later be corrected by amendment.

Senator O'Mahoney recognized the validity of the Indians' request. While he could not promise what action the Committee or the Congress would take, he promised that full consideration would be given to eliminating these defects in the bill. Immediately after Act No. 437 was passed, a bill was introduced in the Senate as S. 3303 which would correct the errors and deficiencies of the Act. This bill was never heard because the Department of Interior never filed its report on it.

We have now asked Congressman Burdick to introduce a bill which is about the same as S. 3303 in the House of Representatives. He has done so and it is before this Committee for consideration. This preliminary hearing is being held at the request of Congressman Fred G. Aandahl of our State. We have talked the bill over with the Commissioner of Indian Affairs, Dillon Myer, who has promised to speed up action on the Committee's report.

The provisions of this bill were substantially all approved by this Committee when it reported out H.J.Res. 11, which later became Act No. 437. The effect of this bill is merely to restore provisions beneficial to the Indians and not injurious to the government which were incorporated in the bill as recommended by this Committee but which were stricken out by the Senate Committee without full consideration. The bill does not involve any increase in the amount that the Tribe is receiving for its lands. We are asking only that we should be permitted to hold on to those rights and privileges that this Committee intended we should have, after giving up our land as the government asked us to do. All the questions involved in this bill were previously before this Committee and were decided in our favor. We are asking you merely to endorse those principles again. If you do so, we believe that we can get the Senate Committee to do the same.

Because the changes in the bill were written in a hurry, the effect is to hurt the Indians without helping the Garrison Dam Project. We are willing to give up the little land we have left for this public project. But if we do, we feel that the government should do us no more harm than is necessary to be done.