



4-29-1949

## Hearings before the Subcommittee on Indian Affairs of the Committee on Public Lands House of Representatives Eighty-First Congress First Session on H.J. Res. 33 Providing for the Ratification by Congress of the Contract to Purchase Indian Lands by the United States from the Three Affiliated Tribes of Fort Berthold, North Dakota

United States Congress

US House of Representatives

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**FORT BERTHOLD INDIAN RESERVATION,  
NORTH DAKOTA**

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**HEARINGS**

BEFORE THE

**SUBCOMMITTEE ON INDIAN AFFAIRS OF THE  
COMMITTEE ON PUBLIC LANDS  
HOUSE OF REPRESENTATIVES**

**EIGHTY-FIRST CONGRESS**

FIRST SESSION

ON

**H. J. Res. 33**

PROVIDING FOR THE RATIFICATION BY CONGRESS OF  
THE CONTRACT TO PURCHASE INDIAN LANDS BY THE  
UNITED STATES FROM THE THREE AFFILIATED TRIBES  
OF FORT BERTHOLD, NORTH DAKOTA

APRIL 29, 30, MAY 2 AND 3, 1949

**Serial No. 7**

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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 RESERVA-  
TION, N. DAK., AND FOR OTHER RELATED PURPOSES

FRIDAY, APRIL 29, 1949

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE  
COMMITTEE ON PUBLIC LANDS,  
*Washington, D. C.*

The subcommittee met, pursuant to call, at 9 a. m., in the committee room of the House Committee on Public Lands, the Honorable Toby Morris (chairman of the subcommittee) presiding.

Mr. MORRIS. The subcommittee will now come to order.

We have for consideration this morning House Joint Resolution 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.

The joint resolution will be inserted in the record at this point.

(The joint resolution is as follows:)

[H. J. Res. 33, 81st Cong., 1st sess.]

JOINT RESOLUTION 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

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to the additional terms and conditions hereinafter set forth in sections 2 to 11, inclusive, which are made a part of this ratification, the following contract by and between the United States of America and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, entered into on May 20, 1948, pursuant to the provisions of the War Department Civil Appropriation Act, 1948 (Public Law 296, Eightieth Congress), is hereby ratified by the Congress, to wit:

CONTRACT

BY AND BETWEEN THE UNITED STATES AND THE INDIANS OF THE FORT BERTHOLD RESERVATION AS PROVIDED FOR BY PUBLIC LAW 296, EIGHTIETH CONGRESS, FIRST SESSION

This contract, made and entered into this 20th day of May 1948, by and between the United States of America, hereinafter called the "government," represented by the Chief of Engineers, United States Army, and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, hereinafter

called the "tribes," with the approval of a majority of the adult members of said tribes, witnesseth that—

Whereas, an item in the War Department's Civil Appropriations Act, 1948 (Public Law 296, Eightieth Congress, approved July 31, 1947), appropriating funds for "Flood Control, General," provides:

"Garrison (North Dakota) Reservoir: For acquisition of the lands and rights therein within the taking line of Garrison Reservoir, which lands lie within the area now established as the Fort Berthold Indian Reservation, North Dakota, including all elements of value above or below the surface thereof and including all improvements, severance damages, and reestablishment and relocation costs, the sum of \$5,105,625, which said sum is included in the total allocated under this Act for the said Garrison Reservoir and which shall be deposited in the Treasury of the United States to the credit of the Three Affiliated Tribes of Fort Berthold Reservation, to be subject to withdrawal and disbursement as herein provided. This amount is made available subject to the following conditions subsequent and in the event the said conditions are not complied with then this amount shall lapse and be thereby null and void. Said conditions subsequent are:

That a contract between the United States and the said Three Affiliated Tribes shall be negotiated and approved by a majority of the adult members of said tribes and enacted into law by the Congress, providing for the conveyance of said lands and interests and the use and distribution of said fund and that disbursements from said fund shall be made forthwith in accordance with said approved contract and Act of Congress.

That said contract shall be submitted to the Congress on or before the first day of June 1948: *Provided, however,* That, notwithstanding said contract or the provisions of this Act, the said Three Affiliated Tribes may bring suit in the Court of Claims as provided in section 24 of the Act of August 13, 1946, on account of additional damages, if any, alleged to have been sustained by said tribes by reason of the taking of the said lands and rights in the said Fort Berthold Indian Reservation on account of any treaty obligation of the Government or any intangible cost of reestablishment or relocation, for which the said tribes are not compensated by the said \$5,105,625."

Now, Therefore, the parties hereto do mutually agree as follows:

#### ARTICLE I

The tribes, notwithstanding this contract, reserve to themselves all their rights and privileges to pursue further their claims against the government by filing suit in the Court of Claims in accordance with Public Law 296 or by petitioning Congress for additional relief legislation, or both.

#### ARTICLE II

The lands to be taken or acquired by the United States under this contract, to be hereinafter referred to as the "Taking Area", are 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 West line of the East half of the Southwest quarter of the Southeast quarter ( $E\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ ); thence North to South sixteenth line; thence East to East Section line; thence South to Southeast corner of said Section 6; thence West to West line of the East half of the East half of the Northeast quarter ( $\frac{1}{2}E\frac{1}{2}NE\frac{1}{4}$ ) of Section 7; thence South to East and West quarter line; thence East to the East line of the West half of the Northwest quarter of the Southwest quarter of Section 8; thence South to South sixteenth line; thence East to the North and South quarter line; thence North to center of said Section; thence East to East Section line; thence South to South sixteenth line; thence West to the East sixteenth line; thence South to North sixteenth line of Section 17; thence East to the West sixteenth line of Section 16; thence North to North Section line; thence East to North quarter corner; thence South to center of said Section; thence East to East sixteenth line of Section 15; thence South to South sixteenth line; thence West to North and South quarter line; thence South to North line of the South half of the Southeast quarter of the Southwest quarter ( $S\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence West to West sixteenth line; thence



South to the South Section line; thence West to the Southwest corner of Section 15; thence South to North sixteenth line of Section 22; thence East to North and South quarter line; thence North to the North line of the South half of the Northwest quarter of the Northeast quarter ( $S\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ ); thence East to East sixteenth line; thence North to the North line of Section 22; thence East to West line of the East half of the Southeast quarter of the Southeast quarter ( $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ ) of Section 15; thence North to the South sixteenth line; thence East to West sixteenth line of Section 14; thence South to the South Section line; thence West to the Southwest corner of said Section 14; thence South to the North sixteenth line of Section 23; thence East to the West sixteenth line; thence South to the South sixteenth line; thence East to the East sixteenth line; thence North to the North sixteenth line; thence East to the East Section line; thence North to the Northeast corner of Section 23; thence East to the East line of the West half of the East half of the Northwest quarter of Section 24; thence South to East and West quarter line; thence West to the East line of the West half of the West half of the Southwest quarter; thence South to South Section line; thence East to East sixteenth line; thence North to East and West quarter line; thence East to the East quarter corner of Section 24, Township 150 North, Range 93 West of the 5th P. M.; thence East to West sixteenth line of Section 19, Township 150 North, Range 92 West of the 5th P. M.; thence South to North sixteenth line of Section 30; thence East to East line of Section 30; thence South to the North line of the South half of the Southwest quarter of the Northwest quarter ( $S\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ ) of Section 29; thence East to the West sixteenth line; thence North to the South line of the North half of the Northwest quarter of the Northwest quarter ( $N\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ ); thence West to the West Section line; thence North to South sixteenth line of Section 20; thence East to the West sixteenth line; thence South to South Section line; thence East to the East sixteenth line; thence North to the East and West quarter line; thence East to the East quarter corner of Section 20; thence South to the West quarter corner of Section 28; thence East to center of said Section; thence South to South sixteenth line; thence East to the East Section line; thence South to the Southeast corner of Section 28; thence East to the East sixteenth line of Section 34; thence South to the North sixteenth line; thence East to West sixteenth line of Section 35; thence North to the North Section line; thence East to the North quarter corner of Section 35; thence North to the center of Section 26; thence East to the East sixteenth line; thence North to South sixteenth line of Section 23; thence West to the North and South quarter line; thence North to the North sixteenth line; thence West to the West line of the East half of the Northwest quarter of the Northwest quarter ( $E\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ ); thence North to South sixteenth line of Section 14; thence East to the North and South quarter line; thence South to South Section line; thence East to West sixteenth line of Section 13; thence North to South sixteenth line; thence East to North and South quarter line; thence South to South quarter corner; thence East to the East sixteenth line; thence North to South sixteenth line; thence East to East line of Section 13, Township 150 North, Range 92 West of the 5th P. M.; thence North to the West quarter corner of Section 18, Township 150 North, Range 91 West; thence East to the West sixteenth line; thence North to North sixteenth line; thence East to East sixteenth line; thence North to the North Section line; thence West to the North quarter corner of Section 18; thence North to South sixteenth line of Section 7; thence East to the East Section line; thence North to the Northeast corner of Section 7; thence West to South quarter corner of Section 6; thence North to center of Section 6; thence West to West sixteenth line; thence North to North line of Section 6; thence East along Township line between Townships 150 & 151 North to the Northwest corner of Section 1; thence South to West quarter corner; thence East to West sixteenth line; thence South to South sixteenth line; thence East to North and South quarter line; thence South to South Section line; thence East to Southeast corner of Section 1, Township 150 North, Range 91 West of 5th P. M.; thence South to the North line of the South half of Lot 2 of Section 7, Township 150 North, Range 90 West of the 5th P. M.; thence East to the West line of the East 20 acres of Lot 2; thence South to the East and West quarter line; thence West to the West quarter corner; thence South to the Southwest corner of Section 7; thence East to the West line of the East 20 acres of Lot 1 of Section 18; thence South to South line of said Section 18; thence East to the West sixteenth line of Section 19; thence South to North sixteenth line; thence West to West Section line; thence South to Southwest corner; thence East to the South quarter corner; thence North to center of Section; thence East to



East quarter corner; thence South to North sixteenth line of Section 29; thence East to North and South quarter line; thence South to center of Section; thence West to West quarter corner of Section 29; thence South to South sixteenth line of Section 30; thence West to West sixteenth line; thence South to the South line of Section 31, Township 150 North, Range 90 West of the 5th P. M.; thence South along the West sixteenth line of Section 6, Township 149 North, Range 90 West of the 5th P. M. to the South line of said Section 6; thence East to North quarter corner of Section 7; thence South to South sixteenth line; thence East to the West sixteenth line of Section 8; thence North to East and West quarter line; thence West to West line of the East half of the Southwest quarter of the Northwest quarter ( $E\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ ); thence North to the North line of the Southeast quarter of the Northwest quarter of the Northwest quarter ( $SE\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$ ); thence East to the East line of the Southwest quarter of the Northeast quarter of the Northwest quarter ( $SW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$ ); thence South to North sixteenth line; thence East to the West line of the East half of the Northwest quarter of the Northeast quarter ( $E\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ ); thence North to the North Section line; thence East to the Northeast corner of Section 8; thence North to South sixteenth line of Section 4; thence East to West sixteenth line; thence North to East and West quarter line; thence East to center of Section; thence South to South sixteenth line; thence East to East sixteenth line; thence South to North sixteenth line of Section 9; thence East to East line of Section 9; thence South to South sixteenth line of Section 10; thence East to West sixteenth line; thence North to North Section line; thence East to East sixteenth line; thence South to East and West quarter line; thence East to East quarter corner of Section 10; thence South to South sixteenth line of Section 11; thence East to West sixteenth line of Section 11; thence South to South Section line; thence East to East sixteenth line; thence North to East and West quarter line; thence East to East quarter corner of Section 11; thence South to South sixteenth line of Section 12; thence East to East Section line; thence South to North sixteenth line of Section 13; thence West to the East line of the West half of the Southeast quarter of the Northeast quarter ( $W\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ ); thence South to the East and West quarter line; thence West to the East sixteenth line; thence South to South line of Section 13; thence East to the East line of the West half of the Northeast quarter of the Northeast quarter ( $W\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$ ) of Section 24; thence South to the North sixteenth line; thence West to the West sixteenth line; thence North to the North Section line; thence West to the Northwest corner of Section 24; thence South to the North sixteenth line of Section 23; thence West to North and South quarter line; thence North to the North line of the South half of the North half of the Northwest quarter ( $S\frac{1}{2}N\frac{1}{2}NW\frac{1}{4}$ ); thence West to the North and South quarter line of Section 22; thence South to center of Section; thence West to the East line of the West half of the Southeast quarter of the Northwest quarter ( $W\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ ); thence North to North sixteenth line; thence West to East sixteenth line of Section 21; thence South to East and West quarter line; thence West to the East line of the West half of the Southeast quarter ( $W\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}$ ); thence South to South Section line; thence East to Southeast corner of Section 21; thence South to North sixteenth line of Section 27; thence East to West sixteenth line; thence South to East and West quarter line; thence East to center of Section; thence South to South sixteenth line; thence West to North and South quarter line of Section 28; thence North to center of Section; thence West to West sixteenth line; thence South to South sixteenth line; thence West to West Section line; thence South to West quarter corner of Section 33; thence East to West sixteenth line; thence South to South line of Section 33, Township 149 North, Range 90 West of the 5th P. M.; thence East along North line of Section 1, Township 148 North, Range 91 West of the 5th P. M. to the Northeast corner; thence South to South sixteenth line; thence West to East sixteenth line; thence South to East and West quarter line of Section 12; thence West to center of Section; thence South to South Section line; thence West to East sixteenth line of Section 14; thence South to East and West quarter line; thence West to East line of the West half of the Northwest quarter of the Southeast quarter ( $W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ); thence South to South sixteenth line; thence West to North and South quarter line; thence South to South quarter corner; thence East to Southeast corner of Section 14; thence South to North sixteenth line of Section 24; thence East to West sixteenth line; thence South to East and West quarter line; thence East to East sixteenth line; thence North to North Section line; thence East to Northeast corner of Section 24, Township 148 North, Range 91 West of the 5th P. M.; thence South to West quarter corner of Section



19, Township 148 North, Range 90 West of the 5th P. M.; thence East to center of Section; thence South to South sixteenth line; thence East to East line of Section 19; thence North to North sixteenth line of Section 20; thence East to North and South quarter line; thence South to South sixteenth line; thence East to East sixteenth line; thence South to South Section line; thence East to the East line of the West half of the Northwest quarter of the Northwest quarter ( $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ ) of Section 28; thence South to North sixteenth line; thence East to the North and South quarter line; thence North to the South sixteenth line of Section 21; thence East to West line of the East half of the Northwest quarter of the Southeast quarter ( $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ); thence North to North sixteenth line; thence East to the East sixteenth line; thence South to East and West quarter line; thence East to the East quarter corner; thence South to the North sixteenth line of Section 27; thence East to the West sixteenth line; thence South to East and West quarter line; thence East to East quarter corner; thence North to North sixteenth line; thence West to East sixteenth line; thence North to North section line; thence East to West sixteenth line of Section 26; thence South to East and West quarter line; thence East to East line of the West half of the East half of the Southwest quarter ( $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}$ ); thence South to South Section line; thence East to Southeast corner of Section 26; thence North to the West quarter corner of Section 25; thence East to West sixteenth line; thence South to South sixteenth line; thence East to East sixteenth line; thence South to South Section line; thence East to Southeast corner of Section 25, Township 148 North, Range 90 West of the 5th P. M.; thence North to South sixteenth line of Section 30, Township 148 North, Range 89 West of the 5th P. M.; thence East to West sixteenth line; thence South to North sixteenth line of Section 31; thence West to West Section line; thence South to Southwest corner; thence East to West sixteenth line; thence North to East and West quarter line; thence East to East sixteenth line; thence North to North sixteenth line; thence East to the East line of Section 31; thence South to South sixteenth line of Section 32; thence East to North and South quarter line; thence South to South quarter corner; thence East to East sixteenth line; thence North to South sixteenth line; thence East to East Section line; thence South to Southeast corner of Section 32, Township 148 North, Range 89 West of the 5th P. M.; thence West to the West line of the East half of Lot 1 of Section 5, Township 147 North, Range 89 West of the 5th P. M.; thence South to East and West quarter line; thence East to West sixteenth line of Section 4; thence North to North sixteenth line; thence East to East line of Section 4; thence South to South sixteenth line of Section 3; thence East to West sixteenth line; thence South to South line of Section 3; thence East to the East line of the West half of the Northwest quarter of the Northeast quarter of Section 10; thence South to North sixteenth line; thence East to the East sixteenth line; thence South to the East and West quarter line; thence East to East quarter corner of Section 10; thence South to South sixteenth line of Section 11; thence East to North and South quarter line of Section 12; thence North to North sixteenth line; thence West to West Section line; thence North to Northwest corner of Section 12; thence East to West sixteenth line of Section 1; thence North to South sixteenth line; thence West to West section line; thence North to North line of the South half of the Southwest quarter of the Northwest quarter ( $S\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ ); thence East to West sixteenth line; thence South to East and West quarter line; thence East to center of Section; thence South to South quarter corner; thence East to Southeast corner of Section 1, Township 147 North, Range 89 West of the 5th P. M.; thence South to the North line of the South half of Lot 1 of Section 7, Township 147 North, Range 88 West of the 5th P. M.; thence East to the West sixteenth line; thence North to the North line of Section 7; thence East to the South quarter corner of Section 6; thence North to the North line of the South half of the Southwest quarter of the Southeast quarter ( $S\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ ); thence East to the East sixteenth line; thence South to the South line of the North half of the Northwest quarter of the Northeast quarter ( $N\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ ) of Section 7; thence West to North and South quarter line; thence South to the North line of the South half of the North half of the Southeast quarter ( $S\frac{1}{2}N\frac{1}{2}SE\frac{1}{4}$ ); thence East to the East Section line; thence North to the East quarter corner of Section 7; thence East to the West line of the East half of the Southwest quarter of the Northwest quarter ( $E\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ ) of Section 8; thence North to the North sixteenth line; thence East to the North and South quarter line; thence North to the North quarter corner; thence East to the Northeast corner; thence South to the South line of the North half of the Northeast quarter of the



Northeast quarter ( $N\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$ ); thence West to East sixteenth line; thence South to the South line of the North half of the Southwest quarter of the Northeast quarter ( $N\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$ ); thence West to North and South quarter line; thence South to center of Section; thence West to the East line of the West half of the East half of the Southwest quarter ( $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}$ ); thence South to the South line of Section 8; thence West to West sixteenth line of Section 17; thence South to the North line of the South half of the Northeast quarter of the Northwest quarter ( $S\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$ ); thence East to East sixteenth line; thence North to North line of Section 17; thence East to West line of the East half of the Southeast quarter of the Southeast quarter ( $S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ ) of Section 8; thence North to South sixteenth line; thence East to East line of Section 8; thence South to North line of the South half of the South half of the Southwest quarter ( $S\frac{1}{2}S\frac{1}{2}SW\frac{1}{4}$ ) of Section 9; thence East to North and South quarter line; thence South to South quarter corner of Section 9; thence West to West sixteenth line of Section 16; thence South to North line of the South half of the Northwest quarter of the Northwest quarter ( $S\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ ); thence West to West Section line; thence South to North line of the South half of the Southwest quarter of the Northwest quarter ( $S\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$ ); thence East to West sixteenth line; thence South to East and West quarter line; thence East to center of Section; thence South to South sixteenth line; thence West to West sixteenth line; thence South to South Section line; thence East to Southeast corner of Section 16; thence North to South sixteenth line of Section 15; thence East to East sixteenth line; thence North to North Section line; thence East to Northeast corner of Section 15; thence South to North sixteenth line of Section 14; thence East to North and South quarter line; thence South to center of Section; thence East to East quarter corner of Section 14; thence North to North line of the South half of the North half of the Northwest quarter ( $S\frac{1}{2}N\frac{1}{2}NW\frac{1}{4}$ ) of Section 13; thence East to North and South quarter line; thence South to North sixteenth line; thence East to East sixteenth line; thence North to North line of the South half of the Northeast quarter of the Northeast quarter ( $S\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$ ); thence East to East line of Section 13, Township 147 North, Range 88 West of the 5th P. M.; thence North to West quarter corner of Section 7, Township 147 North, Range 87 West of the 5th P. M.; thence East to center of Section; thence North to North quarter corner; thence East to East sixteenth line; thence South to East and West quarter line; thence East to East quarter corner of Section 7; thence North to North line of the South half of the Southwest quarter of the Northwest quarter of Section 8; thence East to West sixteenth line; thence North to North sixteenth line; thence East to West line of the East half of the Northeast quarter of the Northwest quarter ( $E\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$ ); thence North to North Section line; thence East to East line of the West half of the Northwest quarter of the Northeast quarter ( $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ ); thence South to North sixteenth line; thence West to North and South quarter line; thence South to center of Section; thence West to East line of the West half of the East half of the Southwest quarter ( $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}$ ); thence South to South Section line; thence East to East sixteenth line; thence North to North line of the South half of the Southeast quarter of the Northeast quarter ( $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ ); thence East to East Section line; thence South to Southeast corner of Section 8; thence East to South quarter corner of Section 9; thence North to North line of the South half of the North half of the Southeast quarter ( $S\frac{1}{2}N\frac{1}{2}SE\frac{1}{4}$ ); thence East to the East line of Section 9; thence South to South sixteenth line of Section 10; thence East to the East line of the Northwest quarter of the Southeast quarter of the Southwest quarter ( $NW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to the North line of the Southeast quarter of the Southeast quarter of the Southwest quarter ( $SE\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$ ); thence East to East sixteenth line; thence North to South sixteenth line; thence East to the East line of the West half of the Southwest quarter of the Southwest quarter ( $W\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ ) of Section 11; thence South to the South line of the Northwest quarter of the Northwest quarter of the Northwest quarter ( $NW\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$ ) of Section 14; thence West to the East line of the Southwest quarter of the Northeast quarter of the Northeast quarter ( $SW\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$ ) of Section 15; thence South to the East and West quarter line; thence East to East quarter corner of Section 15; thence South to the North line of the South half of the North half of the Southwest quarter ( $S\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}$ ) of Section 14; thence East to North and South quarter line; thence South to the North line of the South half of the South half of the Southeast quarter ( $S\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}$ ); thence East to the East line of Section



14; thence North to the South sixteenth line of Section 13; thence East to the West line of the East half of the Northwest quarter of the Southwest quarter ( $E\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$ ); thence North to East and West quarter line; thence East to an intersection with the East boundary of the Fort Berthold Indian Reservation, as surveyed, at a point 2,321 feet East of the East quarter corner of Section 13, Township 147 North, Range 87 West of the 5th P. M.; thence South 25° West along said Reservation Boundary Line, as surveyed, to the low water line of the right bank of the Missouri River; thence upstream along said low water line of the right bank of the Missouri River to a point 1,663 feet North and 1,305 feet West of the East quarter corner of Section 1, Township 146 North, Range 88 West of the 5th P. M., said point being on the East boundary of the Ft. Berthold Indian Reservation, as surveyed; thence South 53° 09' West along said Reservation Boundary, as surveyed, to the East line of Section 16; thence North to the South sixteenth line of Section 10; thence East to West sixteenth line; thence North to East and West quarter line; thence West to West quarter corner of Section 10; thence North to North sixteenth line of Section 9; thence West to North and South quarter line; thence South to center of Section; thence West to West quarter corner; thence North to Northeast corner of Section 8; thence West to East sixteenth line of Section 8; thence South to South line of Section; thence East to Southeast corner of Section 8; thence South to North sixteenth line of Section 16; thence East to West sixteenth line; thence South to East and West quarter line; thence East to center of Section; thence South on North and South quarter line to the Ft. Berthold Indian Reservation Boundary Line; thence South 53° 09' West along said Boundary line to the Southeast corner of Section 17; thence West to the East sixteenth line of Section 18; thence North to the North line of Section 18; thence West to the West sixteenth line of Section 7; thence North to South sixteenth line; thence East to North and South quarter line; thence North to center of Section; thence West to West sixteenth line; thence North to North sixteenth line; thence West to the West line of Section 7, Township 146 North, Range 88 West of the 5th P. M.; thence West on North sixteenth line of Section 12, Township 146 North, Range 89 West of the 5th P. M. to the North and South quarter line; thence South to South sixteenth line; thence East to West line of the East half of the Southwest quarter of the Southeast quarter ( $E\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ ); thence South to South Section line; thence West to East line of the West half of the Southeast quarter of the Southwest quarter ( $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence North to South sixteenth line; thence West to West sixteenth line; thence North to East and West quarter line; thence West to center of Section 11; thence South to North line of the South half of the North half of the Southwest quarter ( $S\frac{1}{2}N\frac{1}{2}SW\frac{1}{4}$ ); thence West to West Section line; thence North to West quarter corner of Section 11; thence West to East sixteenth line of Section 10; thence North to North sixteenth line; thence East to East Section line; thence North to Northeast corner of Section 10; thence East to South quarter corner of Section 2; thence North to center of Section; thence West to West sixteenth line; thence North to North sixteenth line; thence East to East section line; thence North to Northeast corner of Section 2; thence East to West sixteenth line of Section 1; thence South to North sixteenth line; thence East to North and South quarter line; thence South to the South line of the North half of the South half of the Northeast quarter ( $N\frac{1}{2}S\frac{1}{2}NE\frac{1}{4}$ ); thence East to East line of Section 1, Township 146 North, Range 89 West of the 5th P. M.; thence North to the South sixteenth line of Section 36, Township 147 North, Range 89 West of the 5th P. M.; thence West to East sixteenth line; thence North to East and West quarter line; thence West to West quarter corner of Section 36; thence North to North sixteenth line of Section 35; thence West to West sixteenth line; thence North to North Section line; thence West to Southeast corner of Section 28; thence North to East quarter corner; thence West to the West line of the East half of the Northwest quarter of the Southeast quarter ( $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ); thence South to South sixteenth line; thence West to East line of the West half of the Northeast quarter of the Southwest quarter ( $W\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ ); thence North to East and West quarter line; thence West to West quarter corner of Section 28; thence North to North Sixteenth line of Section 29; thence West to East sixteenth line; thence South to East and West quarter line; thence West to center of Section; thence North to North sixteenth line; thence West to West sixteenth line; thence North to North line of Section 29; thence East to South quarter corner of Section 20; thence North to center of Section; thence West to West sixteenth line; thence South to South sixteenth lines; thence West to the West line of the



East half of the Northwest quarter of the Southeast quarter ( $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ) of Section 19; thence North to East and West quarter line; thence West to center of Section; thence South to South sixteenth line; thence West to the East line of the West half of the Southeast quarter of the Southwest quarter ( $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to South Section line; thence West to the Southwest corner of Section 19, Township 147 North, Range 89 West of the 5th P. M.; thence West to North quarter corner of Section 25, Township 147 North, Range 90 West of the 5th P. M.; thence South to North Sixteenth line; thence East to East Section line; thence South to East quarter corner; thence West to the East line of the West half of the East half of the Southwest quarter ( $W\frac{1}{2}E\frac{1}{2}SW\frac{1}{4}$ ); thence South to South Section line; thence West to South quarter corner of Section 26; thence North to South sixteenth line; thence West to the West Section line; thence South to Southwest corner of Section 26; thence West to South quarter corner of Section 27; thence North to center of Section; thence East to East quarter corner of Section 27; thence North to North sixteenth line of Section 26; thence East to North and South quarter line; thence North to center of Section 23; thence West to West sixteenth line; thence North to North sixteenth line; thence East to East sixteenth line; thence North to North line of Section 23; thence East to Southeast corner of Section 14; thence North to East quarter corner; thence West to East sixteenth line; thence North to North sixteenth line; thence West to North and South quarter line; thence South to center of Section; thence West to West quarter corner of Section 14; thence North to North sixteenth line of Section 15; thence West to East sixteenth line; thence South to East and West quarter line; thence West to center of Section; thence North to North sixteenth line; thence West to West line of Section 15; thence South to South sixteenth line of Section 16; thence West to East sixteenth line; thence South to South Section line; thence West to South quarter corner; thence North to North quarter corner; thence West to West sixteenth line; thence South to East and west quarter line; thence West to West quarter corner of Section 16; thence South to North sixteenth line of Section 20; thence West to East sixteenth line; thence North to North Section line; thence West to North quarter corner; thence South to North sixteenth line; thence West to West sixteenth line; thence North to East and West quarter line of Section 17; thence West to West quarter corner of said Section 17; thence North to North line of the South half of the North half of the Northeast quarter ( $S\frac{1}{2}N\frac{1}{2}NE\frac{1}{4}$ ) of Section 18; thence West to North and South quarter line; thence North to North quarter corner; thence East to Northeast corner of Section 18; thence North to South sixteenth line of Section 7; thence West to North and South quarter line; thence North to center of Section; thence West to West line of the East 20 acres of Lot 5; thence South to South section line; thence West to Southwest corner of Section 7, Township 147 North, Range 90 West of the 5th P. M.; thence West along South line of Section 12, Township 147 North, Range 91 West of the 5th P. M. to the West line of the East half of the Southeast quarter of the Southwest quarter ( $E\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence North to South sixteenth line; thence East to North and South quarter line; thence North to center of Section; thence West to the East line of the West half of the Northwest quarter of the Southwest quarter ( $W\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}$ ); thence South to South sixteenth line; thence West to the West line of the East half of the Northwest quarter of the Southeast quarter ( $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ) of Section 11; thence North to East and West quarter line; thence East to East sixteenth line; thence North to North sixteenth line; thence East to East Section line; thence North to Northeast corner of Section 11; thence West to the West line of the East half of the Southeast quarter of the Southeast quarter ( $E\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ ) of Section 2; thence North to South sixteenth line; thence West to East sixteenth line; thence North to East and West quarter line; thence West to East sixteenth line of Section 3; thence North to North sixteenth line; thence West to North and South quarter line; thence North to North quarter corner; thence West to Northwest corner; thence South to West quarter corner; thence East to West sixteenth line; thence South to South sixteenth line of said Section; thence West to North and South quarter line of Section 4; thence North to North sixteenth line; thence West to West Section line; thence South to West quarter corner of Section 4; thence West to center of Section 5; thence South to South sixteenth line; thence West to West sixteenth line; thence North to North sixteenth line; thence West to West line of Section 5; thence South to East quarter corner of Section 6; thence West to East sixteenth line; thence North to North line of said Section 6, Township 147 North, Range 91 West of the 5th P. M.; thence North on East sixteenth line of



Section 31, Township 148 North, Range 91 West of the 5th P. M. to East and West quarter line; thence West to West quarter corner; thence South to South sixteenth line; thence East to West sixteenth line; thence South to South line of Section 31, Township 148 North, Range 91 West of the 5th P. M.; thence East to North quarter corner of Section 6, Township 147 North, Range 91 West of the 5th P. M.; thence South to North sixteenth line; thence West to West section line; thence South to West quarter corner; thence East to the West line of the East 20 acres of Lot 6; thence South to South line of Section 6; thence East to West sixteenth line of Section 7; thence South to East and West quarter line; thence East to center of Section; thence South to South quarter corner; thence West to Southwest corner of Section 7, Township 147 North, Range 91 West of the 5th P. M.; thence West on North line of Section 13, Township 147 North, Range 92 West of the 5th P. M. to the East sixteenth line; thence South to East and West quarter line; thence West to West quarter corner; thence North to North West corner of Section 13; thence East to West sixteenth line of Section 12; thence North to North Section line; thence West to Southeast corner of Section 3; thence North to East quarter corner; thence West to the West Line of the East half of the Southwest quarter of the Northeast quarter ( $E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$ ); thence North to North sixteenth line; thence West to the East line of the West half of the Southeast quarter of the Northwest quarter ( $W\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ ); thence South to East and West quarter line; thence West to West sixteenth line; thence South to South sixteenth line; thence West to East sixteenth line of Section 4; thence North to North sixteenth line; thence West to East line of the West half of the Southeast quarter of the Northwest quarter ( $W\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ ); thence South to South sixteenth line; thence West to West sixteenth line; thence South to South Section line; thence East to South quarter corner of Section 4; thence South to North sixteenth line of Section 9; thence West to West sixteenth line; thence South to North line of the South half of the Northeast quarter of the Southwest quarter ( $S\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ ); thence East to North and South quarter line; thence South to South quarter corner of Section 9; thence West to West sixteenth line of Section 16; thence South to East and West quarter line; thence West to the West line of the East half of the Southeast quarter of the Northeast quarter of Section 17; thence North to North line of said Section 17; thence West to East sixteenth line of Section 8; thence North to South sixteenth line; thence West to West line of the East half of the Northwest quarter of the Southeast quarter ( $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ); thence North to East and West quarter line; thence West to center of Section; thence South to South sixteenth line of Section 17; thence East to East sixteenth line; thence South to North line of the South half of the Southeast quarter of the Southeast quarter ( $S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ ); thence East to East Section line; thence South to Southeast corner; thence West to South quarter corner of Section 17; thence South to North sixteenth line of Section 20; thence East to East sixteenth line; thence South to East and West quarter line; thence West to center of Section; thence South to South quarter corner of Section 20; thence East to East line of the West half of the Northwest quarter of the Northeast quarter ( $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ ) of Section 29; thence South to South line of the Southwest quarter of the Southwest quarter of the Northeast quarter ( $NW\frac{1}{4}SW\frac{1}{4}NE\frac{1}{4}$ ); thence West to North and South quarter line; thence South to South sixteenth line; thence East to East line of the West half of the Southwest quarter of the Southeast quarter ( $W\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ ); thence South to South Section line; thence East to the Southeast corner of Section 29; thence South to West quarter corner of Section 33; thence East to West sixteenth line; thence South to South sixteenth line; thence East to North and South quarter line; thence North to center of Section; thence East to the East line of the West half of the West half of the Southeast quarter ( $W\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}$ ); thence South to South line of Section 33, Township 147 North, Range 92 West of the 5th P. M.; thence East to Northwest corner of Section 3, township 146 North Range 92 West of the 5th P. M.; thence South to North line of the South half of the South half of the North half ( $S\frac{1}{2}S\frac{1}{2}N\frac{1}{2}$ ), thence East to East Section line; thence South to East quarter corner of said Section 3; thence East to West sixteenth line of Section 2; thence South to South sixteenth line; thence East to West line of the East half of the Southeast quarter of the Southwest quarter ( $E\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to the North line of the Southwest quarter of the Northeast quarter of the Northwest quarter ( $SW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$ ) of Section 11; thence West to West Section line; thence North to South line of the North half of the South half of the South half ( $N\frac{1}{2}S\frac{1}{2}S\frac{1}{2}$ ) of Section 3; thence West to West line of said Section 3; thence



North to South sixteenth line of Section 4; thence West to North and South quarter line; thence North to center of Section; thence West to West sixteenth line; thence South to South sixteenth line; thence West to West Section line; thence South to Southwest corner of Section 4; thence West to West line of the East half of the Southwest quarter of the Southeast quarter ( $E\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ ) of Section 5; thence North to South sixteenth line; thence East to West line of the East half of the Northeast quarter of the Southeast quarter ( $E\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$ ); thence North to East and West quarter line; thence East to East quarter corner; thence North to North sixteenth line; thence West to East sixteenth line; thence North to North Section line; thence West to Northwest corner of Section 5, Township 146 North, Range 92 West of the 5th P. M.; thence North to the South line of the North half of the South half of the Southeast quarter ( $N\frac{1}{2}S\frac{1}{2}SE\frac{1}{4}$ ) of Section 31, Township 147 North, Range 92 West of the 5th P. M.; thence West to North and South quarter line; thence South to South quarter corner; thence West to Southwest corner of Section; thence North on the West line of said Section 31, Township 147 North, Range 92 West of the 5th P. M. to an intersection with the low water line of the Little Missouri River at the left or North bank of said stream; thence upstream in a Northwesterly direction with said low water line of the left bank, a distance of approximately 23 miles to an intersection with the North and South quarter line of Section 34, Township 148 North, Range 95 West of the 5th P. M.; thence North along said quarter line to the North quarter corner of said section; thence East to Northeast corner of Section 34; thence South to North sixteenth line of Section 35; thence East to North and South quarter line; thence South to center of Section; thence East to East quarter corner; thence South to Southeast corner of Section 35, Township 148 North, Range 95 West of the 5th P. M.; thence East to North quarter corner of Section 1, Township 147 North, Range 95 West of the 5th P. M.; thence South to center of Section; thence East to East quarter corner of and Section 1, Township 147 North, Range 95 West of the 5th P. M.; thence East to West sixteenth line of Section 5, Township 147 North, Range 94 West of the 5th P. M.; thence South to South sixteenth line; thence East to East sixteenth line; thence South to South Section line; thence East to Southeast corner of Section 5; thence South to North sixteenth line of Section 17; thence West to East sixteenth line; thence South to South Section line; thence East to Southeast corner of said Section 17; thence South to West quarter corner of Section 21; thence East to center of Section; thence North to North sixteenth line; thence East to East sixteenth line; thence North to North Section line of Section 21; thence East to South quarter corner of Section 14; thence North to South line of the North half of the Northeast quarter of the Southwest quarter ( $N\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ ); thence West to West sixteenth line; thence North to North line of the South half of the Southeast quarter of the Northwest quarter ( $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ ); thence East to North and South quarter line; thence South to center of Section; thence East to East sixteenth line of Section 13; thence South to South sixteenth line; thence East to East section line; thence South to Southeast corner of said Section 13, Township 147 North, Range 94 West of the 5th P. M.; thence East to South quarter corner of Section 18, Township 147 North, Range 93 West of the 5th P. M.; thence North to South sixteenth line; thence East to East line of the West half of the Southwest quarter of the Southeast quarter ( $W\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ ); thence South to South Section line; thence East to Southeast corner of said Section 18; thence South to South sixteenth line of Section 20; thence East to East Section line; thence South to the North line of the South half of the North half of the Northwest quarter ( $S\frac{1}{2}N\frac{1}{2}NW\frac{1}{4}$ ) of Section 28; thence East to North and South quarter line; thence South to North sixteenth line; thence East to the East line of the West half of the Southeast quarter of the Northeast quarter ( $W\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ ); thence South to East and West quarter line; thence East to West sixteenth line of Section 27; thence North to North Section line; thence East to North quarter corner; thence South to center of Section; thence East to East sixteenth line; thence South to South sixteenth line; thence East to North and South quarter line of Section 26; thence North to center of Section; thence East to East sixteenth line; thence North to North sixteenth line; thence East to East line of said Section 26; thence South to South sixteenth line of Section 25; thence East to East line of said Section 25, Township 147 North, Range 93 West of the 5th P. M.; thence East along the South sixteenth line of Section 30, Township 147 North, Range 92 West of the 5th P. M. to the North and South quarter line; thence North to center of Section 19; thence East to East sixteenth line; thence North to North Section



line; thence West to Northwest corner of said Section 19, Township 147 North, Range 92 West of the 5th P. M.; thence West to South quarter corner of Section 13, Township 147 North, Range 93 West of the 5th P. M.; thence North to center of Section; thence East to East quarter corner of said Section 13, Township 147 North, Range 93 West of the 5th P. M.; thence North to North sixteenth line of Section 7, Township 147 North, Range 92 West of 5th P. M.; thence East to West sixteenth line; thence North to South sixteenth line of Section 6; thence East to East sixteenth line; thence North to East and West quarter line; thence West to West line of said Section 6, Township 147 North, Range 92 West of the 5th P. M.; thence South to South sixteenth line of Section 1, Township 147 North, Range 93 West of the 5th P. M.; thence West to North and South quarter line; thence South to South quarter corner; thence West to West sixteenth line; thence North to South sixteenth line; thence West to West line of said Section 1; thence North to South line of the North half of the Northeast quarter of the Southeast quarter ( $N\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$ ) of Section 2; thence West to East sixteenth line; thence North to North line of the South half of the Southeast quarter of the Northeast quarter ( $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ ); thence East to East Section Line; thence North to Northeast corner of said Section 2, Township 147 North, Range 93 West of the 5th P. M.; thence West to South quarter corner of Section 35, Township 148 North, Range 93 West of the 5th P. M.; thence North to South sixteenth line; thence West to West Section line; thence North to West quarter corner of said Section 35; thence West to center of Section 34; thence North to North quarter corner; thence East to North quarter corner of Section 35; thence South to center of Section; thence East to West sixteenth line of Section 36; thence South to South Section line; thence East to Southeast corner of said Section 36, Township 148 North, Range 93 West of the 5th P. M.; thence North to the North line of the South half of the South half of the Southwest quarter ( $S\frac{1}{2}S\frac{1}{2}SW\frac{1}{4}$ ) of Section 31, Township 148 North, Range 92 West of the 5th P. M.; thence East to North and South quarter line; thence South to South quarter corner; thence East to South quarter corner of Section 32; thence North to South sixteenth line; thence West to East sixteenth line of Section 31; thence North to East and West quarter line; thence East to East quarter corner of said Section 31; thence North to North line of the South half of the North half ( $S\frac{1}{2}S\frac{1}{2}N\frac{1}{2}$ ) of Section 32; thence East to East Section line; thence North to South line of the North half of the North half of the North half ( $N\frac{1}{2}N\frac{1}{2}N\frac{1}{2}$ ); thence West to East sixteenth line of Section 31; thence North to North Section line; thence West to Northwest corner of said Section 31, Township 148 North, Range 92 West of the 5th P. M.; thence North to South sixteenth line of Section 25, Township 14 North, Range 93 West of the 5th P. M.; thence West to East sixteenth line; thence North to East and West quarter line; thence West to center of Section; thence North to North quarter corner of said Section 25; thence West to West sixteenth line of Section 24, thence North to North line of the South half of the Northeast quarter of the Southwest quarter ( $S\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ ); thence East to East sixteenth line; thence South to South Section line; thence East to Southeast corner of said Section 24, Township 148 North, Range 93 West of the 5th P. M.; thence South to the North line of the South half of Lot 2, Section 30, Township 148 North, Range 92 West of the 5th P. M.; thence East to North and South quarter line; thence South to center of Section; thence East to East quarter corner; thence North to Northeast corner of said Section 30; thence East to East line of the West half of the East half of the Northwest quarter ( $W\frac{1}{2}E\frac{1}{2}NW\frac{1}{4}$ ) of Section 29; thence South to East and West quarter line; thence East to East sixteenth line of Section 28; thence South to South sixteenth line; thence East to West sixteenth line of Section 27; thence North to East and West quarter line; thence West to West quarter corner; thence North to Northwest corner of said Section 2; thence West to East sixteenth line of Section 21; thence North to East and West quarter line; thence East to West sixteenth line of Section 22; thence South to South sixteenth line; thence East to East line of the West half of the Southeast quarter of the Southwest quarter ( $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to South Section line; thence East to South quarter corner of said Section 22; thence South to North line of the South half of the North half of the Northeast quarter ( $S\frac{1}{2}N\frac{1}{2}NE\frac{1}{4}$ ) of Section 27; thence East to East line of said Section 27; thence South to North sixteenth line of Section 26; thence East to West line of the East half of the Southeast quarter of the Northwest quarter; thence South to South sixteenth line; thence West to the West sixteenth line; thence South to South Section line; thence East to East sixteenth line; thence North to South sixteenth line; thence East to East Sec-



tion line; thence North to Northeast corner of said Section 26; thence East to Northeast corner of Section 25; thence North to South sixteenth line of Section 24; thence West to East sixteenth line; thence North to North Section line; thence East to Northeast corner of said Section 24, Township 148 North, Range 92 West of the 5th P. M.; thence South to North sixteenth line of Section 19, Township 148 North, Range 91 West of the 5th P. M.; thence East to West sixteenth line; thence South to East and West quarter line; thence East to center of Section; thence South to South sixteenth line; thence East to the East Section line; thence South to the Southeast corner of said Section 19; thence East to South quarter corner of Section 20; thence North to North sixteenth line; thence West to West sixteenth line; thence North to South sixteenth line of Section 17; thence West to West Section line; thence North to North sixteenth line; thence East to West sixteenth line; thence North to North line of said Section 17; then West to the West line of the East half of the West half of the Southwest quarter ( $E\frac{1}{2}W\frac{1}{2}SW\frac{1}{4}$ ) of Section 8; thence North to East and West quarter line; thence East to center of Section; thence North to South line of the North half of the Southeast quarter of the Northwest quarter ( $N\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ ); thence West to West sixteenth line; thence North to North sixteenth line; thence West to West Section line; thence North to Northwest corner of said Section 8; thence West to South quarter corner of Section 6; thence North to South sixteenth line; thence West to West sixteenth line; thence North to East and West quarter line; thence East to East quarter corner of said Section 6; thence South to South sixteenth line of Section 5; thence East to North and South quarter line; thence North to North sixteenth line; thence West to West sixteenth line; thence North to North line of said Section 5, Township 148 North, Range 91 West of the 5th P. M.; thence East to East sixteenth line of Section 34, Township 149 North, Range 91 West of the 5th P. M.; thence North to South sixteenth line; thence West to West line of the East half of the Northwest quarter of the Southeast quarter ( $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ); thence North to East and West quarter line; thence East to East quarter corner of said Section 34; thence South to South sixteenth line of Section 35; thence East to East line of the West half of the Southeast quarter of the Southwest quarter ( $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to South Section line; thence East to South quarter corner; thence North to North sixteenth line; thence West to West sixteenth line; thence North to North Section line; thence East to North quarter corner of said Section 35; thence North to center of Section 26; thence East to East sixteenth line; thence North to North Section line; thence West to North quarter corner of said Section 26; thence North to South sixteenth line of Section 23; thence West to West line of the East half of the Northeast quarter of the Southwest quarter ( $E\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ ); thence North to East and West quarter line; thence West to West sixteenth line; thence North to North sixteenth line; thence West to West Section line; thence North to Northwest corner of said Section 23; thence West to East sixteenth line of Section 15; thence North to East and West quarter line; thence West to West line of the East half of the West half of the Northeast quarter ( $E\frac{1}{2}W\frac{1}{2}NE\frac{1}{4}$ ); thence North to North Section line; thence West to North quarter corner of said Section 15; thence North to center of Section 10; thence West to West sixteenth line of Section 9; thence North to South sixteenth line of Section 4; thence West to West sixteenth line; thence North to North Section line; thence West to Northwest corner of said Section 4, Township 149 North, Range 91 West of 5th P. M.; thence North to East quarter of Section 32, Township 150 North, Range 91 West of the 5th P. M.; thence West to West quarter corner; thence South to Southwest corner of said Section 32, Township 150 North, Range 91 West of the 5th P. M.; thence West to East sixteenth line of Section 6, Township 149 North, Range 91 West of the 5th P. M.; thence South to North sixteenth line; thence West to West sixteenth line; thence South to East and West quarter line; thence West to East Section line; thence South to North line of the South half of Lot 6 of said section; thence East to West sixteenth line; thence South to South sixteenth line; thence East to East line of the West half of the Southeast quarter of the Southwest quarter ( $W\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to South Section line; thence West to Southwest corner of said Section 6, Township 149 North, Range 91 West of the 5th P. M.; thence West to East sixteenth line of Section 1, Township 149 North, Range 92 West of the 5th P. M.; thence North to South sixteenth line; thence West to the East line of the Northwest quarter of the Southeast quarter of the Southwest quarter ( $NW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$ ); thence South to South line of the



Northwest quarter of the Southeast quarter of the Southwest quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ); thence West to West Section line; thence South to Southwest corner of said Section 1; thence West to West sixteenth line of Section 11; thence South to North line of the South half of the Northeast quarter of the Northwest quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ); thence East to the East line of the Southwest quarter of the Northwest quarter of the Northeast quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ); thence South to North sixteenth line; thence East to East sixteenth line; thence South to North line of the Southwest quarter of the Southeast quarter of the Northeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ); thence East to East line of the Southwest quarter of the Southeast quarter of the Northeast quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ); thence South to East and West quarter line; thence East to East quarter corner; thence South to Southeast corner of said Section; thence West to East sixteenth line; thence North to South sixteenth line; thence West to North and South quarter line of Section 11; thence South to North sixteenth line of Section 14; thence West to East line of the West half of the Southwest quarter of the Northwest quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ ); thence South to East and West quarter line; thence West to West quarter corner; thence South to Southwest corner of said Section 14; thence West to East sixteenth line of Section 15; thence North to East and West quarter line; thence West to the West line of the East half of the Southeast quarter of the Northeast quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section 16; thence North to the North line of the Southeast quarter of the Northeast quarter of the Northeast quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ ); thence East to East section line; thence North to Northeast corner of said Section 16; thence East to the South quarter corner of Section 10; thence North to South sixteenth line; thence East to East sixteenth line; thence North to North line of said Section 10; thence West to East line of the West half of the Southeast quarter of the Southwest quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 3; thence North to South sixteenth line; thence West to West Section line; thence North to West quarter corner of said Section 3; thence West to center of Section 4; thence South to South quarter corner; thence West to West sixteenth line; thence North to South line of the North half of the Northwest quarter of the Southwest quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ ); thence West to West line of said Section 4; thence North to South line of the North half of the South half of the Northeast quarter (N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ ) of Section 5; thence West to North and South quarter line; thence North to North quarter corner; thence West to Northwest corner of said Section 5; thence South to North sixteenth line of Section 6; thence West to West sixteenth line; thence North to North line of said Section 6, Township 149 North, Range 92 West of the 5th P. M.; thence East to the West line of the East half of the Southeast quarter of the Southwest quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 31, Township 150 North, Range 92 West of the 5th P. M.; thence North to South sixteenth line; thence West to West Section line; thence South to Southwest corner of said Section 31, Township 150 North, Range 92 West of the 5th P. M.; thence West to East sixteenth line of Section 36, Township 150 North, Range 93 West of the 5th P. M.; thence North to East and West quarter line; thence West to center of Section; thence South to South quarter corner of said Section 36, Township 150 North, Range 93 West of the 5th P. M.; thence West to the East line of the West half of the East half of the Northwest quarter of Section 1, Township 149 North, Range 93 West of the 5th P. M.; thence South to East and West quarter line; thence West to West line of the East half of the Southwest quarter of the Northwest quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ ); thence North to North sixteenth line; thence East to West sixteenth line; thence North to North line of said Section 1, Township 149 North, Range 93 West of the 5th P. M.; thence West to Southeast corner of Section 35, Township 150 North, Range 93 West of the 5th P. M.; thence North to South sixteenth line; thence West to East sixteenth line; thence South to South Section line; thence West to West sixteenth line; thence North to South sixteenth line; thence East to North and South quarter line; thence North to North sixteenth line; thence West to West sixteenth line; thence South to East and West quarter line of Section 35; thence West to West line of the East half of the East half of the Northeast quarter (E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ ) of Section 34; thence North to North Section line; thence West to North quarter corner; thence South to North sixteenth line; thence West to East sixteenth line of Section 33; thence North to North Section line; thence East to Northeast corner of said Section 33; thence North to East quarter corner of Section 28; thence West to West sixteenth line; thence North to North sixteenth line; thence West to East sixteenth line of Section 29; thence South to East and West quarter line; thence West to East line of the West



half of the West half of the Southeast quarter ( $W\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}$ ); thence South to South line of said Section 29; thence West to West sixteenth line of Section 32; thence South to North sixteenth line; thence West to West Section line; thence South to West quarter corner of said Section 32; thence West to East sixteenth line of Section 31; thence North to North Section line; thence East to Northeast corner of said Section 31; thence North to West quarter corner of Section 29; thence East to West sixteenth line; thence North to East and West quarter line of Section 20; thence West to West quarter corner of said Section 20; thence North to North sixteenth line of Section 19; thence West to West line of said Section 19, Township 150 North, Range 93 West of the 5th P. M.; thence South to East quarter corner of Section 24, Township 150 North, Range 94 West of the 5th P. M.; thence West to West line of the East half of the Southwest quarter of the Northeast quarter ( $E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$ ); thence North to North sixteenth line; thence East to East sixteenth line; thence North to North line of said Section 24; thence West to Southeast corner of Section 14; thence North to South sixteenth line; thence West to West line of said Section 14; thence South to Southeast corner of Section 15; thence West to Southwest corner of said Section 15; thence North to South sixteenth line of Section 16; thence West to North and South quarter line; thence North to North sixteenth line; thence East to North and South quarter line of Section 15; thence South to center of Section; thence East to East quarter corner of said Section 15; thence North to Northwest corner of Section 14; thence East to North quarter corner of Section 13; thence South to North sixteenth line; thence East to East Section line; thence North to Northeast corner of said Section 13; thence West to East sixteenth line of Section 12; thence North to South sixteenth line; thence West to North and South quarter line; thence North to center of Section; thence West to West line of the East half of the Southeast quarter of the Northwest quarter ( $E\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ ); thence North to North sixteenth line; thence West to West line of Section 12; thence North to North sixteenth line of Section 2; thence West to East sixteenth line; thence North to North line of said Section 2, Township 150 North, Range 94 West of the 5th P. M.; thence North on East sixteenth line of Section 35, Township 151 North, Range 94 West of the 5th P. M. to the East and West quarter line; thence East to East quarter corner; thence North to North sixteenth line; thence west to East sixteenth line; thence North to South sixteenth line of Section 26; thence West to North and South quarter line; thence North to center of Section; thence East to East quarter corner of said Section 26; thence North to Southwest corner of Section 24; thence East to West sixteenth line; thence North to South sixteenth line of Section 13; thence West to West Section line; thence South to Southwest corner of said Section 13; thence West to East sixteenth line of Section 14; thence North to East and West quarter line; thence West to West line of the East half of the West half of the Northeast quarter ( $E\frac{1}{2}W\frac{1}{2}NE\frac{1}{4}$ ); thence North to North line of said Section 14; thence East to East sixteenth line of Section 11; thence North to South sixteenth line; thence West to West Section line; thence South to Southwest corner of said Section 11; thence West to East sixteenth line of Section 10; thence North to East and West quarter line; thence East to East quarter corner; thence North to Northeast corner of said Section 10; thence West to South quarter corner of Section 3; thence North to North line of the South half of the Northwest quarter of the Southeast quarter ( $S\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ); thence East to the East line of the Southwest quarter of the Northeast quarter of the Southeast quarter ( $SW\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$ ); thence South to South sixteenth line of Section 3; thence East to West sixteenth line of Section 2; thence South to South Section line; thence East to South quarter corner of said Section 2; thence South on North and South quarter line of Section 11 to North sixteenth line; thence East to East sixteenth line; thence North to North Section line; thence East to Northeast corner of said Section 11; thence South to North sixteenth line of Section 12; thence East to North and South quarter line; thence North to North sixteenth line of Section 1; thence West to West sixteenth line; thence North to North line of Section 1, Township 151 North, Range 94 West of the 5th P. M.; thence North on the West sixteenth line of Section 36, Township 152 North, Range 94 West of the 5th P. M. to the South sixteenth line; thence East to North and South quarter line; thence North to North quarter corner; thence East to Northeast corner of said Section 36, Township 152 North, Range 94 West of the 5th P. M.; thence East to the South quarter corner of Section 30, Township 152 North, Range 93 West of the 5th P. M.; thence North to South sixteenth line; thence East to the East Section line;

thence North to Northeast corner of said Section 30; thence East to South quarter corner of Section 20; thence North to South sixteenth line; thence East to West line of the East half of the Northwest quarter of the Southeast quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ ); thence North to East and West quarter line; thence East to East quarter corner; thence North to West quarter corner of Section 16; thence East to West sixteenth line; thence South to South sixteenth line; thence East to East sixteenth line; thence South to South Section line; thence East to Southeast corner of said Section 16; thence North to Southeast corner of Section 9; thence West to South quarter corner; thence North 2,441.3 feet along the North and South quarter line to the North boundary of the Ft. Berthold Indian Reservation line as surveyed; thence East with said Reservation line approximately two (2) miles to the low water line of the Missouri River at the left bank of said stream; thence downstream with said low water line approximately seven (7) miles to the East and West quarter line of Section 7, Township 151 North, Range 93 West of the 5th P. M.; thence East to center of Section; thence South to South quarter corner of said Section 7; thence West to the West sixteenth line of Section 18; thence South to South Section line; thence East to South quarter corner of said Section 18; thence South to North sixteenth line of Section 30; thence West to West sixteenth line; thence South to South sixteenth line; thence West to the West Section line; thence South to the Southwest corner of Section 31, Township 151 North, Range 93 West of the 5th P. M., being the same point as the point of beginning; also Lot 2, Southeast quarter of the Northeast quarter of the Southeast quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ), Southeast quarter of the Southwest quarter of the Southeast quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 12, and that portion of Lot 5 of Section 13 bounded on the North by the North Section line, on the East by the Ft. Berthold Indian Reservation Line, on the South by a line 660 feet South and parallel to the North Section Line and on the West by a line 660 feet East and parallel to the North and South quarter line of said Section 13, Township 147 North, Range 87 West of the 5th P. M., containing in the aggregate, less water surface, 175,716.44 acres, more or less, EXCEPTING therefrom the following described lands:

DUNN COUNTY

Township	Range	Section	Description	Acres
146 N	92 W	5	Lot 1	40.10
147 N	91 W	2	Lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$	158.20
147 N	92 W	4	Lots 3, 4 & 5	71.60
		5	Lots 1, 2, 3	75.62
		32	Lot 7, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$	149.36
147 N	94 W	14	W $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
		22	Lots 7, 8, 9, 11	102.45
		23	Lots 5, 6, 7, 8, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$	209.81
148 N	91 W	17	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		33	W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$	45.00
148 N	92 W	32	Lots 4 & 5	66.03
149 N	91 W	11	NW $\frac{1}{2}$ NW $\frac{1}{4}$	40.00
		14	S $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
		15	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
		23	NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
150 N	91 W	34	SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$	10.00

McKENZIE COUNTY

152 N	93 W	15	SW $\frac{1}{4}$	160.00
		28	Lot 1, SW $\frac{1}{4}$ NE $\frac{1}{4}$ less erosions	62.91
		29	N $\frac{1}{2}$ , SW $\frac{1}{4}$	480.00
		31	Lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$	308.88
		32	Lots 1, 2, 3, 5, W $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ plus accretions.	324.54
		33	Lot 2, plus accretions	18.91
152 N	94 W	36	NE $\frac{1}{4}$	160.00



McLEAN COUNTY

Township	Range	Section	Description	Acres
147 N	87 W	13	That portion of Lot 5 of Section 13 bounded on the North by the North Section line, on the East by the Ft. Berthold Indian Reservation Line, on the South by a line 660 feet South and parallel to the North Section line and on the West by a line 660 feet East and parallel to the North and South quarter line of Section 13.	11.58
		17	NW $\frac{1}{4}$	160.00
		18	Lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$	150.28
		19	Lots 3, 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$	310.88
		20	N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	82.50
		21	NE $\frac{1}{4}$ , SE $\frac{1}{4}$	320.00
		22	Lots 1, 2, N $\frac{1}{2}$ SE $\frac{1}{4}$ less erosions	111.42
		23	Lots 3 & 4 less erosions	67.79
		30	Lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$	391.19
		147 N	88 W	14
17	S $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$			120.00
19	SW $\frac{1}{4}$ NE $\frac{1}{4}$			40.00
20	SE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$			80.00
21	NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$			80.00
24	W $\frac{1}{2}$ E $\frac{1}{2}$			160.00
28	E $\frac{1}{2}$ E $\frac{1}{2}$ NW $\frac{1}{4}$			40.00
28	Tract of land described as follows: Beginning at a stake on the Section line between Sections 21 & 28 which is 13 chains West of the NE Section corner of Section 28; thence running N 89°-44' W a distance of 4 chains; thence South 5 chains; thence N 89°-44' E a distance of 4 chains and thence North to the place of beginning, the land described being embraced in Section 28, Township 147 North, Range 88 West of the 5th P. M. containing 2 acres.			2.00
29	SE $\frac{1}{4}$ NE $\frac{1}{4}$			40.00
36	Lots 1, 2 & 3			53.00
147 N	89 W	1	S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$	20.00
		6	Lot 4	35.90
147 N	90 W	12	NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$	200.00
		3	Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$	119.94
		4	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$	45.00
148 N	89 W	5	Lots 1, 2, 4 and S $\frac{1}{2}$ NE $\frac{1}{4}$	198.26
		30	Lot 4	35.14
148 N	90 W	19	Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$	115.52
		20	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$	80.00
		21	NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$	120.00
		25	S $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$	160.00
		26	W $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$	120.00
148 N	90 W	27	SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$	240.00
		28	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$	200.00
		29	NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$	360.00
		30	Lots 3 & 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$	311.47
		31	Lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$	311.81
		32	SW $\frac{1}{4}$	160.00
		33	SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$	280.00
		34	SE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$	160.00
		35	N $\frac{1}{2}$ NE $\frac{1}{4}$	80.00
		36	W $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$	200.00
		1	SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ , Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$	268.44
		148 N	91 W	2
12	NW $\frac{1}{4}$ NW $\frac{1}{4}$			40.00
23	NE $\frac{1}{4}$ NW $\frac{1}{4}$			40.00
24	SE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$			120.00
25	NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , SW $\frac{1}{4}$			480.00
26	Lots 4 & 5 plus accretions.			74.88
149 N	90 W	36	NE $\frac{1}{4}$	160.00
		8	SE $\frac{1}{4}$ E $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$	280.00
		10	SE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$	240.00
		12	S $\frac{1}{2}$ S $\frac{1}{2}$	160.00
		13	N $\frac{1}{2}$ N $\frac{1}{2}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$	240.00
		14	NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$	280.00
		15	NE $\frac{1}{4}$	160.00
		16	NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$	160.00
		17	NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$	122.50
		18	Lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$	278.87
		19	NE $\frac{1}{4}$	160.00
		20	W $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
		21	S $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$	120.00
		22	N $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$	100.00
		23	N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$	40.00
24	NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$	100.00		
27	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00		
28	NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$	160.00		
29	SE $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$	240.00		
31	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00		
32	S $\frac{1}{2}$	320.00		
53	W $\frac{1}{2}$ SW $\frac{1}{4}$	80.00		
149 N	91 W	13	Lot 1	45.78



McLEAN COUNTY—Continued

Township	Range	Section	Description	Acres
150 N.	91 W.	1	W $\frac{1}{2}$ SW $\frac{1}{4}$	80.00
		2	Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$	239.36
		4	Lots 1 & 2 and S $\frac{1}{2}$ NE $\frac{1}{4}$	158.44
		6	Lots 1 & 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$	319.21
		9	SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ , 1 acre in the extreme SE corner of NE $\frac{1}{4}$ SW $\frac{1}{4}$	201.00
		10	NE $\frac{1}{4}$ , Lots 1, 2, 3 and SW $\frac{1}{4}$ SW $\frac{1}{4}$	259.60
		11	NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$	120.00
		12	W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , SE $\frac{1}{4}$	560.00
		13	NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , SE $\frac{1}{4}$	480.00
		14	Lots 1, 2, 3, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$	259.00
		15	Lots 1, 2, 3, S $\frac{1}{2}$ N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$	397.30
		16	S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , also the following described tract; Beginning at a stake on the Section line between Sections 9 and 16; thence running due West a distance of 4 chains; thence due South 10 chains; thence due East 4 chains; thence due North to place of beginning, in Section 16 in Township 150 North, Range 91 West of the 5th P. M., containing 4 acres.	89.00
		17	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$	42.50
		18	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		19	Lot 3	33.83
		23	N $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
		24	Lot 1, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$	248.05

MERCER COUNTY

146 N.	88 W.	4	Lots 1, 2, 3 & 4	356.11
		5	Lots 1 & 2, NE $\frac{1}{4}$ SW $\frac{1}{4}$	288.29
		8	W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$	240.00
		9	NW $\frac{1}{4}$	160.00
		2	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
146 N.	89 W.	11	N $\frac{1}{2}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$	360.00
		18	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
		19	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
147 N.	89 W.	18	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
		19	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		27	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		28	S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$	240.00
147 N.	90 W.	29	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		25	E $\frac{1}{2}$ NW $\frac{1}{4}$	80.00

MOUNTRAIL COUNTY

150 N.	92 W.	20	NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
		23	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40.00
		26	W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$	160.00
		28	S $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
		29	E $\frac{1}{2}$	320.00
		33	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		34	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$	120.00
		35	N $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
		36	S $\frac{1}{2}$ S $\frac{1}{2}$	160.00
		150 N.	93 W.	14
15	N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$			120.00
16	Lot 1 and SE $\frac{1}{4}$ SW $\frac{1}{4}$ plus accretions			79.97
17	NE $\frac{1}{4}$ NW $\frac{1}{4}$			40.00
22	N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$			40.00
23	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$			160.00
25	Lots 1, 2, 3, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ plus accretions			178.26
26	N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$			20.00

said exceptions, as tabulated above, containing 20,804.83 acres, more or less.

Total area of lands held by the Three Affiliated Tribes within the Reservation Boundaries and within the Taking Line of the Garrison Reservoir is 154,911.61 acres, more or less.

PART B—RURAL AREAS

MOUNTRAIL COUNTY

151 N.	92 W.	24	W $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
151 N.	93 W.	6	Lot 5	32.11
		7	Lot 2	10.69
		8	NW $\frac{1}{4}$	160.00
152 N.	93 W.	22	Lot 3	29.24
		23	Lots 1 & 2	65.76
		27	Lot 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$	67.97
		32	Lots 4, 6, SE $\frac{1}{4}$ SE $\frac{1}{4}$	98.12
Total				543.89

## FORT BERTHOLD INDIAN RESERVATION, N. DAK.

## PART C.—IN TOWNSITES OF VAN HOOK AND SANISH, NORTH DAKOTA

## VAN HOOK

(All numbers inclusive)

Block	Lots	Block	Lots
8 & 9	All.	28 to 29	All.
10	3, 5 to 16.	30	9 to 16.
15	6, 15, 16.	31	All.
16	9, 10, 16.	33 to 36	All.
17	8, 9, 10, 12 to 15.	37	5 to 16.
18	All.	38 to 40	All.
19	2 to 9.	41	1, 2, 9 to 16.
20 to 26	All.	42	All.
27	1 to 8.		

## SANISH

1 to 14	All.	49	1, 4 to 12.
15	1 to 17, 19, 20.	50	7 to 12.
16 & 17	All.	51 & 52	All.
18	1 to 6, 9, 10, 12.	53	1 to 6, 9 to 12.
19 & 20	All.	54	8, 9, 10, 12.
21	1 to 9.	55	7, 8.
22	1 to 6, 10.	56	10, 11, 12.
23 & 24	All.	57	10, 11.
25	1, 2, 3.	58	9 to 12.
26	1 to 6, 8, 11, 12.	59	5, 6.
27	1, 2, 9, 11.	60	1 to 6.
28	2, 11, 12.	61	1, 2, 3, 9 to 20.
29 & 30	All.	62	1 to 6, 8.
32	1 to 6, 11.	65	3 to 6.
33	1 to 6.	66	1 to 4, 6.
34	2 to 8, 12 to 20.	67	1 to 15.
35 & 36	All.	68	1 to 6, 8, to 12.
37	1 to 7, 10 to 12.	69	5, 6, 7.
39	1 to 6, 12.	70	1, 2, 4.
40	All.	71 & 72	All.
41	1 to 14, 19, 20.	73	3, 7 to 12.
42	2, 4, 8.	74	All.
44	2 to 7.	75	1, 2, 7 to 10.
46	1 to 3, 9, 10, 12.	76 to 81	All.
47	2 to 6, 9.	82	1, 2, 3.
48	1 to 6, 8 to 12.	84	3.

## PART D—PUBLIC RESERVES IN TOWNSITES OF SANISH AND VAN HOOK, NORTH DAKOTA

## VAN HOOK

Block	Lots
32	All.

## SANISH

31	All.
42	6, 7.
43	All.



Part E, all rights in coal heretofore reserved to the Tribes in the following described lands:

DUNN COUNTY

Township	Range	Section	Description	Acres
146 N	92 W	5	Lot 1	40.10
147 N	92 W	4	Lots 3, 4 & 5	71.60
		5	Lots 1, 2 & 3	75.62
		32	Lot 7, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$	149.36
147 N	94 W	22	Lots 7, 8, 9 & 11	102.45
		23	Lots 5, 6, 7 & 8, N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$	209.81
148 N	92 W	32	Lots 4 & 5, S $\frac{1}{2}$ SW $\frac{1}{4}$	146.03
149 N	91 W	14	S $\frac{1}{2}$ NW $\frac{1}{4}$	80.00

McKENZIE COUNTY

152 N	93 W	29	N $\frac{1}{2}$ , SW $\frac{1}{4}$	480.00
		31	Lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$	148.88
152 N	94 W	36	NE $\frac{1}{4}$	160.00

McLEAN COUNTY

147 N	87 W	13	That portion of Lot 5 bounded on the North Section line, on the East by the Fort Berthold Indian Reservation Line, on the South by a line 600 feet South and parallel to the North Section line and on the West by a line 600 feet East and parallel to the North & South quarter line of Section 13.	11.58
		17	NW $\frac{1}{4}$	160.00
		30	N $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
147 N	88 W	19	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00
		21	SW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
148 N	90 W	21	S $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
149 N	90 W	12	S $\frac{1}{2}$ SE $\frac{1}{4}$	80.00
		13	N $\frac{1}{2}$ NW $\frac{1}{4}$	80.00
		16	NW $\frac{1}{4}$ SW $\frac{1}{4}$	40.00
		17	SW $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
150 N	91 W	9	SE $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
		14	N $\frac{1}{2}$ SW $\frac{1}{4}$	80.00
		18	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00

MERCER COUNTY

146 N	88 W	4	Lots 1 & 2	85.90
147 N	9 W	28	S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$	240.00
		29	SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.00

MOUNTRAIL COUNTY

150 N	93 W	17	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.00
Grand total				2,881.33

Together with all rights in coal reserved to the Tribes in patents issued for other lands within the Garrison Reservoir.

ARTICLE III

Section 1. The fund of \$5,105,625 shall be subject to 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, to be taken for the Garrison Project;

(b) Costs of relocating and re-establishing the members of the tribes who reside within the Taking Area of the Garrison Project; and

(c) Costs of relocating and re-establishing Indian cemeteries, tribal monuments, and shrines within the Taking Area of the Garrison Project.

Section 2. The cost of relocating and re-establishing government-owned buildings, facilities, roads, and bridges will be paid from appropriations made or to be made for the construction of Garrison Reservoir, and funds for these purposes may, in the discretion of the Chief of Engineers, be transferred to the Commissioner for expenditure.

Section 3. No portion of the said fund of \$5,105,625 shall be expended by any agency of the government for any expense or cost incurred by it in carrying out the terms of this contract.

Section 4. 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) of Section 1 of this Article shall remain to the credit of the tribes.

Section 5. Lands and improvements belonging to any church, mission, missionary society or to any person not a member of the tribes are excluded from this contract and no part of the fund dealt with in this Article shall be used to pay for the same.

#### ARTICLE IV

Section 1. The Commissioner shall have prepared an appraisal schedule on an individual tract basis of the tribal and allotted lands and improvements, including heirship interests, located within the Taking Area. In the preparation thereof, he shall determine the fair market value of the land and improvements, giving full and proper weight to the following elements of appraisal: damage suffered by partial taking of any tract of land, value of standing timber, mineral rights, and the uses to which the lands are reasonably adapted. He shall also have the said schedule of appraisal submitted to the Chief of Engineers for approval.

Section 2. Upon approval by the Chief of Engineers, the Commissioner shall transmit to the 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 Council and the interested individual Indians will have ninety days from the date of transmittal in which to present to the Commissioner their objections, if any, for consideration and action thereon.

Section 3. 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.

Section 4. In all proceedings instituted in accordance with Section 3 of this Article, individual members of the tribes may request the Commissioner of Indian Affairs to designate attorneys of the Bureau of Indian Affairs to represent them.

#### ARTICLE V

Section 1. The administrative responsibility for the removal, relocation, and reestablishment of the members of the tribes shall be vested in the Commissioner. The Commissioner shall prepare a plan of removal, together with the estimates of cost, and submit the same to the Chief of Engineers. Upon approval by the Chief of Engineers, the plan and estimates shall be transmitted to the Council and on approval by it the Commissioner shall carry out such plan. The plan shall include but shall not be restricted to the cost of transporting to their new locations members of the tribes, their household goods, farming equipment, livestock and other property, the cost of constructing fences and of developing domestic and livestock water supplies on the residual reservation as it may be extended, and the cost of dismantling, transporting, and reerecting salvageable buildings and improvements.

Section 2. The Chief of Engineers shall promptly submit to the Commissioner a schedule showing the approximate time of clearing the right-of-way of the Garrison Project within the Taking Area of the Fort Berthold Reservation. Thereafter the Chief of Engineers and the Commissioner shall at least annually review the schedule of removal to decide upon any changes proposed by either party. The Chief of Engineers shall, however, have final authority to determine any necessary changes required to be made in the schedule. The schedule shall provide for systematic and orderly clearing of the right-of-way by succession of segments.



## ARTICLE VI

Section 1. The Commissioner shall prepare a plan, together with cost estimates, for the relocation and reestablishment of tribal monuments, shrines, and other tribal facilities, and for the disinterment and reinterment of all bodies within the Taking Area, designated by the Council, allottees, heirs, and churches, and submit the same to the Chief of Engineers. Upon approval of the plan and cost estimates by the Chief of Engineers the Commissioner shall transmit the same to the Council and upon approval by it, the Commissioner shall carry out such plan.

Section 2. New sites for the reestablishment of monuments, shrines, private burials, and cemeteries shall be acquired out of the proceeds from the taking of present sites within the Taking Area. Titles to the new sites shall be of like character as exist for the sites acquired by the United States within the Taking Area.

Section 3. Responsibility for carrying out the plan provided for in Section 1 of this Article shall be undertaken, insofar as practicable, by the interested churches, heirs, allottees, Council, or keepers of a particular shrine. The removal plan shall provide for the employment of Indians and for tribal and religious ceremonies. The Commissioner, however, is authorized and directed to assume any responsibility not assumed by any other interested party or parties.

## ARTICLE VII

The amount determined to be due the tribes for tribal lands and interests under the terms and conditions of this contract shall be held in trust by the United States for said tribes and may be used to acquire such other lands or other tribal property, or for such other purposes, as may be determined by the Council with the approval of the Commissioner. All lands thus acquired shall be held by the United States in trust for the benefit of the tribes as other tribal lands and shall be inalienable and nontaxable until otherwise provided by Congress, notwithstanding any other restrictions on the purchase of land under any other law.

## ARTICLE VIII

Section 1. The amount determined to be due the individual allottees and other individual Indians shall be deposited to such individual Indians in their Individual Indian Money Accounts and shall be available for expenditures under the terms of this contract.

Section 2. Under regulations of the Secretary of the Interior or his duly authorized representative, the Superintendent of the Fort Berthold Reservation may authorize the disbursement of funds deposited in the Individual Money Accounts of nonresident members of the tribe and of such other members who, in his opinion, do not require supervision over such funds. Expenditures may be made from the accounts of individual Indians whenever necessary and desirable for the purchase of new lands, homes, or other property for such Indians.

Section 3. Title to new lands acquired with the proceeds deposited to the credit of the allottees or heirs shall be taken in the name of the United States in trust for the individual Indians entitled thereto, and shall be non-alienable and nontaxable until otherwise provided by Congress.

## ARTICLE IX

Section 1. Upon the approval of this contract by the Council and by a majority of the adult members of the tribes and its enactment into law, it is, and shall be held to be a relinquishment and conveyance to the Government of all lands, rights and interests within the Taking Area by the tribes as to tribal lands and by the allottees and heirs as to allotted lands, and no further relinquishment or instrument of conveyance shall be required to extinguish the Indians' interest in and to such lands and rights and to vest the title in the United States.

## ARTICLE X

Section 1. Within two years from the date of this contract the Commissioner, with the approval of the Council, will transmit to the Chief of Engineers a plan for the grazing of livestock between the taking line and the actual water line of the Garrison Reservoir within the residual Fort Berthold Reservation. The said plan shall be based upon the fullest development of the residual reservation for livestock, and shall be accompanied by one or more maps upon which the areas required for grazing shall be delimited. Upon approval of the plan by the Chief of Engineers, the grazing areas delimited for the use of reservation

livestock shall be permanently reserved to the tribes and the members thereof, and may not be reduced or changed thereafter except with the consent of the Commissioner and approval of the Council. The Council may promulgate Rules and Regulations for the utilization of the areas so reserved.

Section 2. In the preparation of the grazing area plan, provided for in Section 1 of this Article, the Commissioner shall, upon the advice of the Chief of Engineers, eliminate any feature which would interfere with the operation of the Garrison Project, but no reservation of land below the taking line of Garrison Reservoir for park, recreational, or wildlife conservation within the Fort Berthold Reservation shall operate to interfere with the prior right of the tribes and the members thereof to the grazing areas delimited by the Commissioner and approved by the Chief of Engineers, notwithstanding the provisions of Section 4 of the Flood Control Act of December 22, 1944 (Public Law No. 534, 78th Congress), as amended or supplemented by Section 4 of the Flood Control Act of July 24, 1946 (Public Law No. 526, 79th Congress).

Section 3. The Council will cooperate with the government and with the State of North Dakota in the conservation, development, and utilization of the wildlife resources within the Taking Area. The hunting and trapping rights of the tribes and the members thereof, as presently established, are expressly reserved to them, and the Council will have the right to issue licenses in accordance with tribal regulations. The tribes and the members thereof will be entitled to fish in Garrison Reservoir under such Rules and Regulations as the Chief of Engineers may establish, but they shall not be required to pay any license fee therefor.

Section 4. The right is reserved to the tribes for use by its members, under such terms and conditions as shall be determined upon by the Council and in accordance with plans approved by the Chief of Engineers, to establish boat harbors, wharfs and recreational areas within the Taking Area, provided that service and dock privileges shall not be made available to non-members of the tribes within the Taking Area of the Reservoir located within the exterior boundaries of the reservation except in accordance with regulations and schedules of rates approved by the tribes with the concurrence or approval of the Chief of Engineers.

#### ARTICLE XI

Section 1. 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.

Section 2. 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 Commissioner, 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 condition that the District Engineer, Garrison District, shall serve notice of clearing at least three months prior thereto.

Section 3. 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.

Section 4. 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.

#### ARTICLE XII

If, in the future, subsurface values are discovered within the Taking Area, which if known at that this time would increase the value of said area, and said values are reduced to money, then the tribes shall be entitled to have paid to them a royalty of one-eighth of the money received for the oil and gas extracted after the ratification of this agreement. Said royalties to be deposited to the tribal funds, or paid to allottees or heirs as their interests now appear.



## ARTICLE XIII

This agreement has been reached upon the understanding that it was the intention of Congress that the entire reasonable cost of accomplishing the purposes set forth in subparagraphs (a), (b), and (c) of Section 1, Article III, should be paid from appropriations made or to be made for the construction of Garrison Reservoir; and that if the \$5,105,625 now available is insufficient to meet such reasonable costs as approved by the Chief of Engineers, such additional sum or sums as may be necessary therefore will be made available from appropriations for construction of Garrison Reservoir.

## ARTICLE XIV

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

## ARTICLE XV

This contract shall not become effective until it has been ratified by a majority of the adult members of the tribes, by the Council of the tribes, and on behalf of the United States by the enactment into law by the Congress.

In witness whereof, the parties hereto have executed this contract as of the day and year first above written.

Witnesses:

RACHEL MORRIS  
JOSEPH W. KIMBEL

The United States of America

By (Signed) R. A. WHEELER  
Lieutenant General  
Chief of Engineers,  
U. S. Army.

The Three Affiliated Tribes of Fort  
Berthold Indian Reservation.

ALLAN G. HARPER  
J. B. SMITH  
RALPH H. CASE  
JOHN G. HUNTER  
D'ARCY MCNICKLE

By GEORGE GILLETTE  
JAMES HALL, Sr.  
MARK MAHTO  
GEORGE CHARGING, Sr.  
JOSEPH PACKINEAU  
LEVI WATERS  
EARL BATEMAN  
LEO YOUNG WOLF  
RUFUS STEVENSON, JBS  
JAMES BAKER

Members of the Tribal  
Business Council.

I, Mark Mahto, CERTIFY THAT I am the Secretary of the Tribal Business Council of the Three Affiliated Tribes named as a party to this contract, and that George Gillette, James Hall, Sr., Mark Mahto, George Charging, Joseph Packineau, Levi Waters, Earl Bateman, Leo Young Wolf, Rufus Stevenson, James Baker, who signed this contract on behalf of said tribes, constitute the duly elected and qualified Tribal Business Council.

In witness whereof, I have hereunto affixed my hand this 20th day of May, 1948.

[SEAL]

MARK MAHTO, Secretary.

We, Mark Mahto, Secretary of the Tribal Council of the Three Affiliated Tribes of the Fort Berthold Reservation, and Ben Reifel, Superintendent of the Fort Berthold Indian Agency, hereby jointly certify that 625 adult members of the said tribes have signified their approval of the foregoing contract consisting of 44 pages numbered 1 to 44 by affixing their signatures to papers bearing the legend "We approve the contract with the United States relating to lands affected by Garrison Reservoir," which papers are on file in the office of the Fort Berthold Indian Agency. We further certify that the signatures on said papers represent a majority of the adult members of the said tribes, the total number of adult members as of this date being 960.

MARK MAHTO, Secretary  
BEN REIFEL, Superintendent.

I concur: May 20, 1948  
J. A. KRUG  
Secretary of the Interior

SEC. 2. That there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of \$3,000,000 for the establishment of a land Readjustment Fund which shall be administered by the Commissioner of Indian Affairs. The fund shall be operated for the benefit of the Indians of the Three Affiliated Tribes in consolidating their land holdings and in purchasing land for needy members thereof. The fund shall be operated for a period of ten years from the date of the appropriation Act therefor and at the termination of said period of ten years any balance remaining therein shall revert to the Treasury, and all lands acquired by the fund which have not been deeded in trust to members of the Three Affiliated Tribes shall be held by the United States in trust for the Three Affiliated Tribes and shall be nontaxable and nonalienable until otherwise provided by Congress.

SEC. 3. That the sum authorized to be appropriated by section 2 of this joint resolution shall be used to bring about the consolidation of Indian allotted and tribal lands into economic use units. The Commissioner of Indian Affairs is authorized to acquire by purchase or exchange any allotted, inherited, or unrestricted lands, interests in lands and improvements, located in the Fort Berthold Reservation. Lands so acquired by purchase or exchange for the Indians will be taken in the name of the United States in trust for the tribes or individual Indians and lands so acquired by the tribes may be sold to or exchanged with members of the Three Affiliated Tribes. Preference shall be given to the original allottee in the purchase of or exchange for lands acquired by the tribes under this section. These lands shall have the same status as other tribal lands and be subject to existing laws relating to sales or exchanges, and shall remain nontaxable and nonalienable until otherwise provided by Congress. Proceeds derived by members of the Three Affiliated Tribes for lands taken for the Garrison project may be used to purchase lands acquired by the tribe with land readjustment funds. The tribal authorities may make assignments of land to needy members of the tribes in the manner provided by existing law.

SEC. 4. To compensate adequately the Three Affiliated Tribes and the individual members thereof for all breaches of their treaty with the United States of September 17, 1851 (11 Stat. 749); for the abrogation of section 5 (e) of article VI of the constitution and bylaws of the said Three Affiliated Tribes of the Fort Berthold Reservation, adopted in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); for the disruption of the economic, social, religious, and community life of the said tribes; for reducing the said tribes to the condition of displaced persons; for the destruction of the basic industry of the said tribes; for the intangible costs of relocation and the reestablishment of a sound economic base for the future of said tribes and their adjustment to the new fields of endeavor to be created by the construction and operation of Garrison Dam and Reservoir, none of which is covered by or compensated for by the appropriation made by said Act of July 31, 1947, and which is not covered by or compensated for in the contract hereinbefore set out, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$6,500,000, and when said sum shall have been appropriated it shall be credited to the Three Affiliated Tribes in the Treasury of the United States and draw interest at the rate of 4 per centum per annum, and shall be available for expenditure by the Tribal Council of the said Three Affiliated Tribes of the Fort Berthold Reservation with the approval of the Commissioner of Indian Affairs.

SEC. 5. That when electric power is available at the Garrison project, there is hereby reserved and set aside a block of power amounting to at least twenty thousand kilowatts to be delivered at a point or points on the reservation and at a voltage to be determined by the Commissioner of Indian Affairs for use by the Three Affiliated Tribes on the residual Fort Berthold Reservation as it may be extended, and that the tribe or its authorized representative with the approval of the Commissioner of Indian Affairs shall pay for the amount of power used at a rate not to exceed 2 mills per kilowatt-hour. Until such time as the tribe shall require for uses on the reservation for the benefit of tribal enterprises and other enterprises, individual members and for other uses within the exterior boundaries of the reservation, as it may be extended, the amount of the reserved unit of power not actually being used within the reservation may be used by the United States or its agency as may be required off the Fort Berthold Reservation. This electric energy may be used for any and all purposes as may be determined upon by the Tribal Council with the approval of the Commissioner of Indian Affairs.



SEC. 6. That, under the direction of the Secretary of the Interior, there shall be made complete investigations as to the feasibility of providing irrigation within the residual areas of the Fort Berthold Reservation and there shall be constructed, maintained, and operated irrigation works on the lands within the residual area upon the findings of feasibility of providing such irrigation facilities. The provisions for such investigations and irrigation works shall extend to any Indian individual or tribal trust lands acquired in the future. The facilities thus provided for the irrigation of Indian lands shall be not less favorable to the Indian lands than for non-Indian lands provided with such irrigation facilities, and the cost assessable against the land properly chargeable as an irrigation cost shall be not more than the cost of providing similar facilities to other lands receiving benefits from the Garrison Dam. The repayment of the share of the cost to be borne by the Indian lands shall be subject to the terms and conditions of other laws applicable to Indian lands, including the Act of July 1, 1932 (47 Stat. 564-565).

SEC. 7. The fund of \$5,105,625, appropriated by Public Law 296, Eightieth Congress, for compensation to the Three Affiliated Tribes shall bear interest at 4 per centum per annum in the Treasury of the United States, from July 31, 1947, and the interest shall likewise be credited to the Three Affiliated Tribes. The said funds shall be and remain nontaxable.

SEC. 8. In no event shall any portion of the fund of \$5,105,625 and any or all funds appropriated under the authority of this joint resolution become liable, payable, or subject to any debt or debts of the Three Affiliated Tribes and the members thereof contracted prior to the passage of this joint resolution except debts to the United States or the Three Affiliated Tribes: *Provided*, That all outstanding obligations incurred by members of the Three Affiliated Tribes in connection with Farm Security Administration, Farm Home Administration, and seed and feed loan programs of the Federal Government shall be and are hereby canceled.

SEC. 9. The foregoing conditions and requirements, and the funds made available and those authorized to be appropriated in this joint resolution, when appropriated, shall be in complete and final settlement of all the rights, interests, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

SEC. 10. It is hereby recognized that the royalties provided for in article XII of the contract shall apply to all minerals, including oil and gas, as therein dealt with.

SEC. 11. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as are required to carry out the conditions, provisions, and requirements of this joint resolution.

Mr. MORRIS. In view of the fact that we only have an hour to work this morning, since Congress goes in session at 10 o'clock under the 5-minute rule on the bill we are now considering, we must conclude before 10 o'clock, so I would like for the witnesses to help us by being as brief as they can, and get right down to the point. We do not want to rush so much that we do not fully consider this matter. We want to fully consider this matter, because this is a most important matter, but we would like for you to observe the propriety of time and help as much as you can.

Mr. LEMKE. Mr. Chairman, I wish to make a brief outline.

Mr. MORRIS. Yes, Mr. Lemke.

#### STATEMENT OF HON. WILLIAM LEMKE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. LEMKE. This is with regard to House Joint Resolution 33, which I introduced.

This resolution has the support of the Bureau of Indian Affairs, and its principal objective is to reimburse the Indians for 155,000 acres of land taken by the Garrison Dam.

I wish to state that the items included in the bill are:

First, the lands taken, which is the very heart of the reservation, the valley lands. It is the same as though you took the machinery out of a factory and left the four walls standing. You are destroying a going concern.

Next, we should consider that these Indians are our wards and under the treaty we agreed we would never again disturb them if they would take this land, after we took about 13,000,000 acres away from them for 10 cents an acre.

Then we have some obligations under that treaty. While the Supreme Court has held that Congress can break a treaty, it has also warned Congress it should not do it lightly.

Next, there is the question of a going concern, and the income that they receive from cattle and from the going concern which we are destroying.

Finally, there is the question of their being wards of the Government, and that the Government owes some obligation to a ward, when it breaks an agreement with a ward.

With that general outline I shall now ask that Congressman Burdick be permitted to make an opening statement.

This resolution carries an appropriation of something over \$14,600,000.

Mr. MORRIS. Congressman Burdick, we will be happy to hear from you at this time.

#### STATEMENT OF HON. USHER L. BURDICK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA

Mr. BURDICK. To start with, I have always been opposed to the taking of this land at all.

Now, as I understand it, a 1,850-foot water level in the pool itself will take 155,000 acres of Indian lands.

I want to say to the chairman and to the committee that as the law stands today the engineers have no authority to take any land above a pool level of 1,830 feet. I cannot inform the committee how many acres of the reservation land would be taken at a 1,830-foot level, but if 155,000 acres is taken on the 1,850-foot level much less land would be taken on the 1,830-foot level.

Mr. LEMKE. I may state to my colleague, however, that the Indians claim it makes no difference at all.

Mr. BURDICK. That is true. Because you might as well have the land covered 20 feet as to have it covered 5 feet. That is the theory.

I am for this bill because the first contact that the Army engineers made with the Indians was such that I think the sum was suggested to be \$5,300,000. They did not take into consideration the actual value of this good land.

I do not know whether the chairman is familiar with this river bottom or not.

Mr. MORRIS. No; I am sorry to say that I am not.

Mr. BURDICK. I would say that the Missouri River in some places is 3 or 4 miles wide, and in some places a mile wide, and those bottoms formed by the silt deposits, which go back through the centuries, have built up a soil that is from 15 to 20 feet deep, which is all soil, and they raise great crops in that area.



When the Members of Congress took a look at the proposed agreement on the paying for this land they saw at once that it was not anywhere near enough to fairly compensate the Indians. No provision had then been made for moving from one place to the other, and the best part of the reservation, of course, is along the river bottom where they raise livestock and preserve the livestock in the wintertime.

I do not think there is a place in the United States where that land can be duplicated. It is impossible to give them the same kind of land, because there is not enough of it.

You have to give them a chance to move out. They have to leave those houses. You cannot move them 150 miles or 200 miles, or wherever the place may be that they can find a new home, and the compensation for that, as suggested by Mr. Lemke in the first instance, I think, is very well within reason.

This bill now carries \$14,600,000, which is in itself only a fair compensation for the damage that is being done.

The rest of the reservation that is not covered with water would be the sharp hills, and it is impossible to have any irrigation there. They had the greatest chance for irrigation in the whole valley by using the river bottom. They have lost all that. They are on the pinnacles, and the Government should take that fact into consideration when they move these Indians off.

I live at Williston. I should judge that is 60 miles northwest on the river, the same as the Indians' land. The land I own today once belonged to them.

When the Government wanted to get the Indians off they took the mule teams from Fort Buford down to Williston, loaded up the men, women, and children, and hauled them down where they are now. There was nothing said about it, because the Army did it.

This is another case of the Army shoving them around again. If they are going to be shoved around, I want to see them paid for it.

I think the suggestion made by Mr. Lemke, when he introduced these amendments, was very, very conservative. He thought, in conference with Mr. Case, that that was about all they could reasonably expect from Congress, but I am telling you it is not enough. If I had drawn the bill I would have put in more. Probably it would have been poor policy, not getting it passed, but I am saying to you candidly that \$14,600,000 does not pay for that land.

I have the same kind of land, where I am. Right across the road from me last year it sold for \$100 an acre. It is alfalfa land. It is the greatest land in the world outside of the Nile Valley.

When you not only destroy your land but destroy the homes, and the method of living, and when you cannot get any land comparable to it anywhere in the country, I think it is a case where the Government ought to be glad to pay this \$14,600,000, and if they did justice they would give more.

Mr. MORRIS. We appreciate your statement very much, Congressman Burdick. We know that you are acquainted with the situation, and naturally your recommendations and your statement will carry a great deal of weight with us. We appreciate your appearance here.

Mr. BURDICK. Thank you, Mr. Chairman.

Mr. LEMKE. I would ask Mr. Case, the attorney: Who is your next witness; or do you want to open the case yourself?

Mr. CASE. In the absence of our chairman of the tribal council, I suggest that Rev. H. W. Case, of Elbowoods, N. Dak., Congregational missionary in the Indian country, be allowed to speak on the subject of the religious life of the people of this reservation and its consequent disruption by reason of the construction of the Garrison Dam and Reservoir.

Mr. MORRIS. Let me ask: About how long a statement would that be?

I promised this gentleman here that I definitely would hear his testimony before 10 o'clock. I am going to stay with that agreement. I think he appears in opposition, but it does not make any difference to me whether he is for or against the resolution. Everybody must be treated with fairness. I told him we would hear him before 10 o'clock, and I want to keep that agreement.

How long will this witness' testimony be?

Mr. CASE. I will assume the responsibility of yielding the floor to Mr. Martin Cross. Mr. Cross is here as a citizen, not as a representative of the tribal council, nor as a member. We know him very well. We recognize that while he is opposed to us he has the absolute right to state his position.

Mr. MORRIS. Every citizen has that right. If a man stands by himself he ought to be accorded that privilege. That is my theory. I stand alone myself, sometimes.

Mr. CASE. We are in hearty accord with that, and would be glad to yield to Mr. Martin Cross for such time as the Chair desires.

Mr. MORRIS. That is nice of you. The only thing was that if your witness would not take so much time that he could be heard, we would be glad to hear from you now.

Mr. CASE. Mr. Chairman, we would very much prefer, in view of the fact that we have just a short session this morning, as Mr. Lemke has told me, to defer the presentation of our case so that it could be an entirety.

Mr. MORRIS. Very well.

Mr. Cross, we will be glad to hear from you at this time.

Please give your name and any statement you want to make that will identify your interest in this matter in any way.

#### STATEMENT OF MARTIN CROSS OF THE FORT BERTHOLD INDIAN RESERVATION, ELBOWOODS, N. DAK.

Mr. CROSS. Mr. Chairman and gentlemen of the committee. My name is Martin Cross. I reside at Elbowoods, North Dakota. I am enrolled as a member of the Three Affiliated Tribes of the Fort Berthold Indian Reservation. I appreciate this opportunity to appear and deliver my message orally to the committee. I have with me two petitions which combined have over 200 names that I am submitting as my credentials for this occasion. The petitions authorize me as their true representative and spokesman for the group. I am acting on those premises.

I earnestly request that my statements in their entirety and any colloquy that may ensue be printed as record and make it accessible to the Indians at home and other interested parties elsewhere in the United States.

I intend to speak frankly and freely—I will be as brief as possible. I will try to cover all the pertinent matters that pertain to my cause



here. I feel hopeful that the committee will indulge me the time to do so.

The Indian people I represent are now under the control and guardianship of the United States Government. They own property, own lands in severalty, have equity in tribal property and lands held in common. They have at no time attempted to sever their tribal relations with the United States Government. They beg to remain in firm and lasting harmony with the United States Government.

We are not in favor of ratifying of this legislation House Joint Resolution 33. I will carry on from here; my remarks will have the effect and force of the group. I myself have opposed this legislation all along and I am opposing it now. I am doubly convinced that my reasons for opposing it are on a sound basis, logical, and of deep concern both to the Indians and the policy of the United States Government. Therefore, I feel justified in enumerating them here, and file them into the record to be considered with analysis and study of this bill. I hope the members of the committee will give careful consideration to them. I have always adhered to the principle that that Subcommittee of Indian Affairs is set up for the express purpose of protecting the constitutional rights and privileges of the Indians foremost in every consideration of Indian bills; that they are open to suggestions and opinions both legally and morally from both sides of the question. So, therefore, I am speaking here on those terms without fear of any consequence. I do not seek to do any injustice, nor do anything that might result in disastrous or deteriorating effect on my people. I wish to prevent any mistakes that will have lasting effect in the well-being of the Indian people.

Permit me to say that I am well acquainted with my congressional Members here in the United States Congress from the State of North Dakota. There are only four of them, a small number in comparison with other States, but their ability as statesmen is second to none. I have only the highest regard for them. I have every reason to believe that they will do their utmost to support my contentions. I realize that because of their position their advice and recommendations will have strong bearing on any situations in the State of North Dakota, including the Fort Berthold Reservation. I am also seeking the help of other Members of the United States Congress. I am most anxious to carry my problem to final determination.

This is not the first time that public interest has sought to acquire the lands of the Fort Berthold Indians. It has been done before in the 1866 treaty which opened the territory for railroads and by subsequent Executive Orders of 1870 and 1880 which reduced some more of our territory without our consent, until now we have only 600,000 acres left of our original 9,000,000 acres. Is that not depreciation enough? No; the public demands some more. Do you argue why we protest against this further demand? It seems imperative for me to reiterate and remind Uncle Sam at this time of some of the principles involved in this proposition. What I am about to say is within the deep recesses of your mind. I would like to bring it up again to the surface for this occasion to illustrate my point in the following statement.

I oppose the ratification of this legislation House Joint Resolution 33 or any similar legislation now pending in the mills of the United



States Congress wherein the main purpose is to acquire further tribal and individual-owned Indian lands for public purpose.

If you allow the Indians by legislation to sell their best lands, as in the case of Fort Berthold Indians, it is to rob and permit expatriation of their wealth. It not only constitutes breach of promise, but out and out is a violation of treaty stipulations of article VII of Fort Laramie Treaty of September 17, 1851. The Fort Berthold Indians are parties of the second part to this agreement, and it has stood the test of the Court of Claims. I am no attorney therefore I have no knowledge of the procedure of the United States Congress—how they carry out their acts. However, I have grown up with the belief that our rights and title to our lands were safe and secure in the protective custody of the United States Government. I have lived all my life under that atmosphere and have become so accustomed to that philosophy that any transition from that principle would result in a disastrous revolutionary process. I began to wonder if the validity of the Fort Laramie Treaty had become obsolete, or if the meaning had lost its charm. With all these facts and figures if such legislation as House Joint Resolution 33 is approved it will only lead to prove instability of our title to our lands and rights, and prove the hypocrisy of your wardship theory, and we do not wish to have that happen. We ask that Uncle Sam keep that predication intact.

We realize that the building of the Garrison Dam is a big item here in the United States Congress. Millions upon millions of dollars are being expended. The United States Army Engineer Corps is guaranteeing the job. Big names can be made. Everybody wants to get into the act. There is no opposition among the ranks of the United States Congress. It is a big issue. Any opposition raised is not strong enough against the irresistible force of the demand.

Mr. Benton Stong of MVA raises the issue that the feasibility of building such a big earth dam is unsafe. I want to side in with him. I oppose the Garrison Dam Reservoir because it will inundate the lands of the Fort Berthold Reservation and cause to be removed a whole community of Indians from their ancestral homes.

I feel that basically and morally, if Uncle Sam really wants to protect and respect the wishes of the Fort Berthold Indians it can do so without too much trouble. I think liberty-loving people will applaud and support such a stand.

We are classed as noncompetents. The Indian Bureau thrives on that fact. If we are really under the category of noncompetents, then legally we could not enter into contracts as parties.

Gentlemen, I would like to say a few words more, and then I will yield the floor.

That is the way the group that I represent feels. That is the attitude of the people who have sent me down here. They want to stand pat. They ask that the bill, House Joint Resolution 33 be not passed at this time for the following reasons:

The tribal council are unwilling to permit settlement of differences at home. Surely we do not want to burden the United States Congress to decide this matter for us. We feel that it will be a long time yet before the floodwaters of Garrison Dam will reach the doorsteps, and it is premature to feel any alarm today. We have ample time yet to make intelligent decisions. We know what we want. We know how to



ask for it, if permission is offered us. It is not necessary for someone else to do that.

The lump sum offered is not a satisfactory way of making us feel safe in accepting or considering the proposition. It must be a definite thing. We are not playing marbles. We are playing for keeps.

The Indian Office personnel have been around making appraisals of lands, homes, and improvements, but they have never told anyone how much they will receive.

As far as I am concerned, I think it is better to take the condemnation proceedings and receive less, than to settle by arbitration and not be satisfied.

There are some men among the group that we have here who have no property at all. They are here to chisel in on this proposition.

I look at it this way: Only those people who have the chance of being actual losers should be given the first consideration, and not those that have nothing to lose in this steal.

I will put it this way: If you do not have anything you never miss it.

Do not permit any witnesses here with that kind of presentation. Please question each witness as to his occupation, and the real and personal property which is involved in this transaction.

I know that some have nothing to lose, and everything to gain, if this bill goes through. Then I think some provision should be made, if you are going to approve this legislation, for some financial assistance to have it ready for those of us who are going to be moved. It does not make any difference whether you give us \$50,000,000 in the legislation, or something else, if you put it in charge of the tribal council or the Indian Bureau. It is pretty hard to get any money out of them. I do not have to repeat that. It is a fact.

However, I met the new Commissioner of Indian Affairs, and he struck me to prove himself better than we have ever had before, if I am any judge of a man.

There is something that has been left off the contract, so far as the cooperative powers, wherein the condition must be made on water rights. I think we live on both sides of the Missouri River, and I think we are entitled to the water rights of the Missouri River, which has been left out of the contract.

I think the tribal council has the veto power of selling any tribal lands, and putting them on the market for sale. They have never referred that matter to the people. That should be filed into the record.

Gentlemen, if I can answer any questions for you I am ready.

Mr. MORRIS. We appreciate your statement. Of course, we might or might not agree with you, but we definitely will give your statement very careful consideration.

We appreciate your appearing here and you are just as welcome, so far as I am concerned, and I am sure so far as the rest of the committee is concerned, as if you were supporting this matter.

What we want to do is to get at the facts, and the truth of this matter. Of course, we might or might not agree with you. I do not know about that, but we do welcome you here and we appreciate your coming in opposition to this bill. We will give your statement and the matters you have presented careful consideration.

The petitions you brought along will be filed and will become a part of the record in the case, as you request.

I might read this petition for the benefit of the committee, and then file it as a matter of record:

Fort Berthold Indian Reservation, Elbowoods, N. Dak., April 2, 1949. Petition to the various committees of the Congress, Members of Congress, Commissioner of Indian Affairs, to whom it may concern:

This is to certify that we, the undersigned, bona fide members of the three affiliated tribes of the Fort Berthold Reservation in State of North Dakota do hereby recommend Martin Cross a member of reservation to represent and act as our spokesman for our best interests in any pending legislation before the United States Congress. Be it further certified that Martin Cross be given an opportunity to present testimony in reference to joint resolution House Joint Resolution No. 33.

Further request that a small appropriation be made from our tribal funds which are not obligated held in the United States Treasury for purpose of assisting the functions of claims legislative council of Fort Berthold Reservation to comply with the terms of Indian Claims Commission (60 Stat. 959; 25 U. S. C. 70).

We respectfully request our congressional Members from North Dakota to extend all assistance and courtesies to our delegate.

Respectfully submitted.

And then signed by apparently a number of parties.

These petitions will be filed and made a part of the record.

(The documents are as follows:)

FORT BERTHOLD INDIAN RESERVATION,  
Elbowoods, N. Dak., April 2, 1949.

#### PETITION

*To the Various Committees of the Congress, Members of Congress, Commissioner of Indian Affairs to Whom It May Concern:*

This is to certify that we, the undersigned bona fide members of the three affiliated tribes of the Fort Berthold Reservation in State of North Dakota do hereby recommend Martin Cross a member of reservation to represent and act as our spokesman for our best interests in any pending legislation before the United States Congress.

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We respectfully request our congressional Members from North Dakota to extend all assistance and courtesies to our delegate.

Respectfully submitted.

Helen Wilkinson, John Wilkinson, Ruth Smith, Inez Crowsheart, Mae Smith, Walter S. Face, David Young Bear, Mrs. Walter S. Face, Philip Atkins, John Bears Tail, Emma Bears Tail, Mae Newman, Samuel Newman, Jr., Christine Little Owl, Jennie Smith, Lena Spotted Horse, Lucy Smith, Bertha Driver, Yakima Driver, Violet White Body, Audrey Reed, Vera Deane, Clyde Bears Tail, Lena Fox, Alfred Fox, Joseph Deane, Jack Nagel, Mamie Hunts Along, Margaret Deane, Mrs. Little Crow.

Agnes Conklin, Mae Sherwood, Mr. and Mrs. Geo. Howard, Sr., Mr. Dick Wolfe, Mrs. Fannie Wolfe, Francis Deane, Mary S. Smith, Mrs. Lillie Wolf, Lillie S. Coffey, Pete Coffey, Mary Wheeler, Fred Wheeler, Maggie Grinnell, Virginia Grinnell, Driver, George Spotted Wolf, Gertrude S. Wolf, Agnes Spotted Wolf, Sterling Spotted Wolf, Sadie Spotted Wolf, Fred Lone Bear, Sr., Ira Waters, Herbert White Owl, Alvin Black Hawk, Charley Parshall, Jack Black Hawk, Aletha Parshall, Ruby Parshall, Allen Horn, Mrs. Allen Horn, Georgieen Black Hawk, Bessie Elk, Lincoln Newman, Dave Grant, Chester Smith, Sarah Smith, Mary S. Burr, Nora Baker, Anna S. Gun, Alfred S. Smith, Gertrude Smith, Rachel D. Bull, James Horn, Julia Horn, Line



Horn, Moses G. Smith, Phoebe W. Smith, Charles Grant, Guy Fox, Grace Fox, Lucy L. O. Smith, Wm. Smith.  
 Mrs. Rose Drags Wolf, Priscilla Bird, George Drags Wolf, Pearl Wolf, George Wolf, Margaret Wolfe, Rachel Wolf, Glen Fox, Mariam Bulls Eye, Carrie D. Fox, Naomi F. Bear, Mrs. Foolish Bear, Aline Lone Bear, Susie L. Bear, Adelbert Lone Bear, Josephine Dancing Bull, Cora Black Bear, Agnes Dancing Bull, Joseph Black Bear, Mrs. Verna Driver, George Many Ribs, Mrs. Many Ribs, Lee Fox, Ben L. Bear, Mrs. James H. Eagle, James H. Eagle, Victor Elk, Dora Smith, Belle Smith, Mary R. Smith, John S. Crow, Annie Fox, Calvin Dragswolfe, Leona Hale, Mary Eleanor Hale, Rosie Strasser, Mrs. Maggie Deserly, Grace M. Crow, Kennie Dragswolfe, Alice Dragswolf, Louis Drags Wolf, Francis Drags Wolfe, Mrs. Alfred Driver, Mr. Alfred Driver, Lulu Four Davies, Michael Mason, Sr., Mrs. Caroline Mason, Charles Grady, Sr., George W. Fox, Joe Young Bird, Mrs. Fannie Young Bird, Mrs. Lottie Necklace, Ivan Zotti, Mark Necklaee, George Fast Dog, Ernestine D. Smith, Warren Wolf, Mary Fox, George E. Fox, Jr., Fred Gunn, Jr., Charles Grady, Jr., Raymond D. Bull, Cecil Smith, Hilda Smith, Bertha Whitebody, Peppermint X, Malcolm Whitebody, George Grinnell, Grace Grinnell, George Pershall.

FORT BERTHOLD INDIAN RESERVATION,  
 ELBOW WOODS, N. DAK., April 2, 1949.

#### PETITION

*To the Various Committees of the Congress, Members of Congress, Commissioner of Indian Affairs, to Whom It May Concern:*

This to certify that, We the undersigned bona fide members of the Three Affiliated Tribes of the Fort Berthold Reservation in State of North Dakota do hereby recommend Martin Cross a member of reservation to represent and act as our spokesman for our best interests in any pending legislation before the United States Congress.

Be it further certified that Martin Cross be given an opportunity to present testimony in reference to House Joint Resolution 33.

Further request that a small appropriation be made from our tribal funds which are not obligated held in the United States Treasury for purpose of assisting the functions of claims legislative council of Fort Berthold Reservation to comply with the terms of Indian Claims Commission (60 Stat. 959, 25 U. S. C. 70).

We respectfully request our congressional Members from North Dakota to extend all assistance and courtesies to our delegate.

Respectfully submitted.

Wm. J. Deane, Ernest Wilkinson, Jr., Harvey Hopkins, Jr., Robert Bear, Elmer Bear, Mrs. Rose Hand, Mrs. Nellie Y. Bird, Harvey Hopkins, Sr., Clair Everett, Fannie Everett, Lloyd Everett, Melphine Everett, Thomas Yellow Face, Mabel H. Wolf, Daniel H. Wolf, Olive Wells, Ralph Wells, Jr., Mamie White Tail, David White Tail, Stephen Price, William Wilkinson, Dora Bear, Pauline Bear, Hester Eagle, Joseph Eagle, Gilbert Eagle, Ralph L. Owl, Herbert Sitting Cow, Mrs. Corn Stalk, Sylven Sage.

Philip Snow, Flora Demaray, Eana S. Atkins, Margaret Haven, Charles Burr, Walter Young Bear, Mrs. Pearl Young Bear, Mrs. Ruth Young Bear, Mrs. Inez Crows Heart, Roy Crows Heart, Oscar Whiteman, Ivan Young Bear, Robert Lincoln, Mrs. Zora Lincoln, Alice Fredericks, Donald Whiteman, Tonia White Man, Joseph S. Face, Percy Rush, Jacob Bird, Pansy P. Bird, Mattie N. Grinnell, Bessie M. Huff, Mathew H. Eagle, Amos H. Eagle, Ethelyn H. Eagle, Mrs. Louise Saye.

(Discussion off the record.)

Mr. MORRIS. Congressman Lemke and Congressman D'Ewart may want to ask you some questions.

Mr. D'EWART. I have listened with a good deal of interest to your statement.

You have read this contract, I gather, rather carefully and know all the provisions of it?

Mr. CROSS. Yes; I read it, but I do not have the ability to get the picture into my mind.

Mr. D'EWART. This contract will not be conclusive until upon the approval of this contract by the council and by a majority of the adult members of the tribe and its enactment into law. In other words, not only the council, but a majority of the adult members of the tribe have to approve this before it becomes law. Has that been done up to date?

Mr. CROSS. I question that, Mr. D'Ewart, and at the joint committee hearing last June the tribal council failed to produce the signatures of the 625 they stated in that document. I challenge them. I wish the committee would check that again.

Mr. D'EWART. What particular provision of this contract is it that you are not satisfied with?

Mr. CROSS. Well, Mr. D'Ewart, it would take up too much time to say. I do not like it in the present form. I think it could be sent back for general overhauling. The present tribal council have had no opportunity to review this. They just took over what the previous council did.

Mr. D'EWART. This contract was considered, as you remember, before the Senate committee a year ago, and it was supposed to have been submitted to the tribe before then; and since then you have had a year to examine it.

Mr. CROSS. They never did that, sir. On my word of honor they never did it.

Mr. D'EWART. They never examined it?

Mr. CROSS. They never had referred it to the people.

Mr. D'EWART. How long do you think they need to examine it?

Mr. CROSS. Well, it might take quite a while. I would not say. If the tribal council gets busy and does some work that we expect, sir, from them, it might do it in 2 or 3 months.

Mr. D'EWART. Has your tribal council employed anybody to advise you in arriving at a fair settlement of these claims?

Mr. CROSS. Mr. Case, I would say.

Mr. D'EWART. I mean any engineer or accountants.

Mr. CROSS. No, sir.

Mr. D'EWART. Just an attorney?

Mr. CROSS. No, sir; there is no accountant and no engineer. We had a consultant engineer resident of Washington, D. C., but I think his service is terminated at the time he made an appearance before the Appropriations Committee on the Senate side.

Mr. D'EWART. As I remember the hearings a year ago the agreement had been arrived at between the Army engineers and the Indian Bureau and the tribal council, but it was not acceptable to the Senate at that time. That is my understanding.

Mr. CROSS. That is my version.

Mr. D'EWART. With the possible exception of the amount of payment. The other provisions of the contract, as I remember it, were not very much in dispute, except that the Senate insisted that the contract must be finally settled. There would be no future payments at all. The Senate made that very definite at that time, that they were refusing to accept this contract because it was not final settlement.



Mr. CROSS. I understand that, sir. Sections 2 to 11 inclusive, which are made part of this document, are the facts that I said were never referred to the people for approval or rejection.

Mr. D'EWART. If it is not final settlement I doubt very much that there is much use of sending it over to the Senate, because that was settled very clearly at that time.

Mr. CROSS. Yes, sir; you are right.

Mr. D'EWART. In reading over the provisions of this bill it does require that it have the approval of your tribal council and a majority of the adult members. In other words, it must be acceptable or else the provisions do not go into force. That is article 9.

I notice on the back end of the contract that the business council has signed the contract, but we have not had any indication yet as to the adult members.

Mr. CROSS. Yes, sir.

Mr. D'EWART. That is all.

Mr. MORRIS. Mr. Lemke?

Mr. LEMKE. I just wish to ask one question.

So that I may understand you, I think that at our hearings at Elbowoods and again today you are against any kind of a contract or any kind of a payment. You want to keep the land.

Mr. CROSS. That is right. Absolutely right.

Mr. LEMKE. I think we told you then and I will tell you now that that question is beyond the power of this committee. That dam is under construction. \$30,000,000 has been spent on it. It is a question now of salvaging what you can for the Indians. Do you think that you would get anywhere near as much by eminent-domain proceedings, which have been threatened and are taking place among the white people, as you would under this Joint Resolution 33?

Mr. CROSS. I think, Mr. Lemke, that I have made my position clear when I say it does not make any difference if you give us \$50,000,000, if you put it in the tribal council or the Indian Bureau. If you give it direct to me I will consider it.

Mr. LEMKE. But still a minute ago you said you were against any kind of a payment or any kind of a settlement. But you said that you wanted to keep the land. Is that right?

Mr. CROSS. At the present time, sir.

Mr. LEMKE. I would say to you, and I think I have already voiced the sentiment of every Indian and my own sentiment and the sentiment of Congressman Burdick, that our sentiments were the same as yours until it was an accomplished fact. We did not want the Indians dispossessed, but that is an accomplished fact. It is beyond the control of this committee, so the thing for us to do is to see how near we can come to doing justice.

Thank you. I am sure that your testimony will be carefully considered, with the other testimony.

Mr. CROSS. Thank you, sir. Thank you, Mr. Chairman.

Mr. MORRIS. We are glad to have had you with us. We are glad to accommodate you so that you can go on back today.

Mr. CROSS. Thank you, sir.

Mr. MORRIS. At this time and at this point in the record I would like to read a letter which was handed to me this morning, written by John Bad Brave. I do not know who the gentleman is, but perhaps you do.

Mr. CASE. A member of the tribal council, sir.

Mr. MORRIS. It is very short and I will read it for the record at this time. It is headed:

FORT BERTHOLD INDIAN RESERVATION,  
SHELL CREEK DISTRICT,  
April 19, 1947.

STATEMENT

*To Various Committees of Congress, Members of the United States Congress:  
To Whom It May Concern:*

HONORED FRIENDS: I, John Bad Brave, member of the tribal council of Three Affiliated Tribes of Fort Berthold Indian Reservation, I am elected as one of the two councilmen from Shell Creek District, during the last election, September 7, 1948.

I make the following statement in regard to my position on the legislation House Joint Resolution 33.

This said contract was the work of the previous council which we succeed. I did not help formulate any of the provisions.

When I assumed the office I had anticipated that we would review the contract and its provisions and take a stand for continuance of the same contract or contrary, but there was some discussion but no official action taken to approve or reject the contract.

The tribal council as a body never had any part in formulation of sections 2 to 11 of this bill.

Respectfully submitted,

JOHN BAD BRAVE.

In view of that letter, which has been handed me, did you want to ask any questions about this, Mr. Lemke?

Mr. LEMKE. No. I understand when they bring up their case this will be presented in order, and all the way down the line.

Mr. MORRIS. Very well, then. That will become a part of the record.

Now, ladies and gentlemen, we can work a few more minutes here. In order to accommodate you good folks who have come here on this very important matter. If it meets with your approval, we are going to hold a session for you in the morning, which is unusual. Our work is such here that it is a very bad practice, ordinarily, for us to have committee meetings on Saturdays. It is not because we have a lot of leisure time and that we like to take Saturdays off and not do anything, but we usually use Saturdays for working in other fields. Our work is very heavy here, and we have a lot of things to do, but we are happy to accommodate you by holding this committee for you, since you have come here from out of town, and we will hold a meeting for you in the morning which, as I say, is an unusual practice. We will be glad to do that for you if that is your wish.

Would you like for us to do that?

Mr. CASE. We would very much, indeed, and we would be very happy to be able to start tomorrow morning to present our case in chief.

Mr. MORRIS. Yes, sir.

This testimony just given, I think, would appear logically in the record at the end of your case. We are doing this to accommodate this particular party, and I think your case should be presented first, and then this in refutation of it, but we can arrange whatever is proper on that.

Off the record.

(Discussion off the record.)

Mr. CASE. Mr. Chairman, may I have 5 minutes out of the remaining 13 minutes before the hour strikes 10 o'clock?

Mr. MORRIS. You certainly may.



Mr. CASE. I would like to make just a few observations.

Mr. MORRIS. We will set our hearings in the morning at 9 o'clock. Let us all be here at 9 o'clock. That precious hour is needed.

You may proceed, Mr. Case.

**STATEMENT OF RALPH H. CASE, GENERAL COUNSEL, THREE AFFILIATED TRIBES, FORT BERTHOLD RESERVATION OF NORTH DAKOTA, WASHINGTON, D. C.**

Mr. CASE. I would like to call the committee's attention to two or three facts. Mr. Cross is representing a group of 200. There are 2,215 people on the reservation. A number of those people sincerely believe that the treaty is superior and that the dam should not be built at all. That has been their position.

Mr. MORRIS. May I interrupt you right there?

Mr. CASE. Yes, sir.

Mr. MORRIS. Will you please give your name and your representative capacity for the record?

Mr. CASE. I am Ralph H. Case, general counsel, Three Affiliated Tribes, Fort Berthold Reservation, N. Dak. My address is the National Press Building, Washington, D. C.

Mr. MORRIS. Thank you, sir. Go right ahead.

Mr. CASE. Nearly all of the people, I can safely say, or about 99 percent of the people in 1945 and 1946 were violently opposed to the construction of the dam and the taking of the land. They had many reasons behind them.

We came to the Congress. I was their counsel in 1946, and an amendment was made to the civil functions bill which stopped the expenditure of money for the Garrison Dam until the negotiations were had with the Indians, and the lieu land offered. There was a deadline on that of December 31, 1946.

An offer was made and the offer was rejected by the Indians and by the Secretary of the Interior in writing.

We come to 1947. The same controversy arose. In the meantime, no money was being expended for the construction of the dam itself, but millions of dollars were being expended properly and legally for construction of access railways and all preliminary work along the shores.

In 1947 we attempted to write a paragraph for the pending civil functions bill. Senator Gurney, occupying the chair, directed Lt. Gen. R. A. Wheeler and me to get together and prepare something in writing as an amendment to the civil functions bill. We did, and he went before the committee with a disagreement between General Wheeler and me as to the amount in the bill. We could not agree. We did agree on the language. We did not agree on the amount.

General Wheeler and I went to Senator Gurney, and with considerable trouble we absolutely had to take him out of one of his other committee meetings. It was late in the session, and it was very, very difficult to reach anybody. We, however, got Senator Gurney to come to a special conference with General Wheeler and with me, and General Wheeler and I turned the matter over to Senator Gurney in good faith on both sides and said, "There it is. There is our agreement as to language and disagreement as to amount." I, at that time, was ask-

ing for at least \$12,000,000 and General Wheeler was asking for \$5,105,675. Senator Gurney, in his judgment, accepted our agreement as to the language and accepted General Wheeler's suggestion as to the amount, but with a further amendment reserving the right of these people either to sue in the Court of Claims or to further petition Congress for relief legislation.

Then came the period when we drafted the contract. The contract was drawn. It was worked over for 30 days by General Wheeler, General Crawford, and the legal adviser, the officers of the Interior Department, the Tribal Council, and myself. It was day after day for a solid month that we worked out that contract, and we presented the contract within the deadline required, which was the first day of June 1948, and at that time we were at the point of adjournment. We were in a very close position. The contract was signed, sir, by all the members of the Tribal Council, by the Secretary of the Interior, and by the Chief of Engineers on the 20th day of May 1948. It was presented to the Congress.

We then had complied with the statute of 1947. The Congress, as Mr. D'Ewart referred to, had that contract before it. It also had the provisions of the supplemental sections in a separate resolution, a separate Senate resolution.

We met in joint session with the members of your committee and the members of the Senate committee, with Senator Watkins in the chair. When Senator Watkins discovered—and the record will show this, I know—that we had a contract on the one hand in one resolution and a lot of supplemental provisions on the other hand in the other resolution, he insisted that it was unwise to pass either one of the resolutions. He insisted that all the matters go, as he said, into one package, and he said, "Bring it before us and then we will consider it."

We did not have them. Adjournment of Congress was so close it was utterly impossible to get it all done. We did draft House Joint Resolution 426 of the Eightieth Congress, which was introduced by Mr. Lemke, and that resolution served as a working basis for the present resolution, House Joint Resolution 33.

We have now worked this out to a finality. The tribal council is in agreement, the Interior Department is in agreement with this House Joint Resolution 33, as the report of the Interior Department shows.

The element which Mr. Cross represents is naturally the idealistic element who are reluctant to recognize the stubborn fact that this dam not only will be built, but it is, in fact, being built now, and the dirt is rolling and the thing is going forward. It is inevitable.

Those of the tribe numbering 90 percent or more accept the realistic fact. Less than 10 percent still remain the idealists who still live in hope that some miracle will happen to stop the construction of Garrison Dam. We belong to and are the group of realists. The contract itself was ratified by two-thirds of the adult members of the tribe in writing.

Now, those signatures were here and were available, so far as Mr. Cross referred to that. They were here and were available. If the committee desires them they are now available and can be had and produced at any time.



This contract, plus the supplemental resolution is intended, and its purpose is so stated in the resolution, that it is the final and complete settlement for all time.

In regard to the matter, I do not wish to go into the details of it. I merely wish now to file with the present members of the committee copies of my brief on the subject of what this land is worth and what the residue of the land will be worth when the Garrison Dam takes out the bottom land.

(Document submitted for the information of the committee.)

Mr. MORRIS. I think you have made a very clear statement of the matter, and we appreciate that. I think it will be helpful to us. We are happy to have your presentation, and we will give this very careful consideration.

Off the record.

(Discussion off the record.)

Mr. MORRIS. The committee will stand adjourned until 9 o'clock tomorrow morning.

(Thereupon, at 9:55 a. m., Friday, April 29, 1949, an adjournment was taken until 9 a. m., Saturday, April 30, 1949.)

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 RESERVA-  
TION, NORTH DAKOTA, AND FOR OTHER RELATED  
PURPOSES

SATURDAY, APRIL 30, 1949

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE  
COMMITTEE ON PUBLIC LANDS,  
*Washington, D. C.*

The subcommittee met, pursuant to adjournment, at 9 a. m., in the anteroom of the committee room of the House Committee on Public Lands, Hon. Toby Morris (chairman of the subcommittee) presiding.

Mr. MORRIS. The subcommittee will come to order. We will proceed with consideration of House Joint Resolution 33.

Mr. LEMKE. Mr. Chairman, in resuming the hearings on House Joint Resolution 33 may I ask the chairman to call Mr. Case, the attorney for the Three Affiliated Tribes of the Fort Berthold Reservation.

Mr. MORRIS. Mr. Case.

STATEMENT OF RALPH H. CASE, GENERAL COUNSEL, THREE  
AFFILIATED TRIBES, FORT BERTHOLD RESERVATION OF NORTH  
DAKOTA, WASHINGTON, D. C.—Resumed

Mr. CASE. Mr. Chairman and gentlemen of the committee, the Three Affiliated Tribes are here in the person of their entire tribal council with four specially selected delegates for the purpose of this hearing. They present to the committee the resolution House Joint Resolution 33, and ask that the committee consider and favorably report it to the full committee.

In making this presentation I wish to confine my statement to the value of the property that is to be taken from these Indians, the value to them, and to indicate what we think is the value to the United States.

We do present that in the form of a written brief, with a map attached, as the frontispiece of the brief. This map, if I may call it to your attention, shows the boundary of the reservation at Fort Berthold, and it shows the Missouri River in its 60 miles of course and more, down through the center of the reservation.



The hatched lines on the map show the area which is to be taken by the United States as part of the Garrison Reservoir right-of-way.

The total area that will be taken from the Indians, the land belonging to them either as the Three Affiliated Tribes or as individuals, is 155,000 acres. That is not a precise figure, but it is substantially the area taken.

The Garrison project, including the Great Dam, is shown to better advantage on the map which was loaned to me by the Department of the Interior, which hangs behind the chairman. That shows the entire reservoir from the dam 20 miles below the reservation boundary line to the outskirts of Williston, N. Dak.

As we all know, but for the record, this is one of the great dams on the Missouri River project. The control of the river has been hoped for for a great many years. This is the practical solution of the control of the river. There are five dams on the main stem of the river. This is the largest. It impounds the most water, and takes the most land, nearly as much as the other four downstream from this dam. This is the keystone of the arch. It is the structure without which the other dams might about as well be left unbuilt.

Above the headwaters of the reservoir the Yellowstone joins the Missouri. This is a matter of common knowledge in that area where I was born and raised. The Yellowstone furnishes 60 percent of the water, 80 percent of the silt, and 90 percent of the trouble in the Missouri from its junction down.

All of that water of those two great streams can and will be impounded by Garrison Reservoir. It offers the best and only silt basin where the water can be held stationary, and allowing the people to take a large portion of the fluid earth out of the water. When it goes over that spillway at Garrison Dam that water will not be anywhere near as heavily loaded with silt as it is above.

So important is this dam to the Government that without it the whole Missouri River control project would be a futility. There is no substitute, so far as the engineers are concerned. I am referring to the Corps of Engineers. There is no substitute so far as the Corps of Engineers are concerned for this dam.

In 1945 and 1946 these people were first apprised of the fact that the United States was about to take their land from them for this reservoir project. They made every effort to secure hearings and stop the construction of the dam. In that they were not successful.

We came down to 1947, and again we made the effort to offer a substitute dam site. That was met with decided opposition from the Corps of Engineers, who made statements even stronger than I am making now as to the necessity of the Garrison Reservoir. We were not successful in stopping the dam at all. The inevitable happened. The appropriations were made in the Civil Functions Act of 1947 for the fiscal year 1948, of course.

Yet the controversy being there, and before the committees in the Senate, at the direction of Senator Gurney, who was chairman of the Subcommittee on Appropriations hearing the civil-functions bill, there was a direction to Lt. Gen. R. A. Wheeler and to me that we two should get together and bring in legislative language as an amendment which would form some plan of settling the controversy between the United States and the Indians.



General Wheeler and I met for 3 days consecutively, and we finally agreed upon language. We did not agree on the amount. The minimum amount which I asked for was \$12,000,000. The engineer figure was \$5,105,625.

General Wheeler and I found it necessary to turn the entire problem back to Senator Gurney with an agreement as to language and a disagreement as to amount. Senator Gurney was empowered by us, or at least we said we would leave the problem with him, to arrive at a solution. He thought the figure should be \$5,105,625. Then on the floor of the Senate the language which follows in this bill on page 3, the language beginning with line 21 which reserved to the Indians the right to sue in the Court of Claims or petition Congress for additional legislation was put in.

Mr. D'EWART. That is at the bottom of the page?

Mr. CASE. It is the paragraph beginning on line 21, page 3, and going over to the top of page 4.

Based upon that statute a contract was negotiated which appears in this House joint resolution beginning on page 2 and concluding on page 69. That is the contract which on May 20, 1948, the tribal council in person signed. It was signed by Lt. Gen. R. A. Wheeler and approved by Secretary Krug of the Department of the Interior.

To that, as the additional relief legislation, the members of the tribe, with the cooperation of the Department of the Interior, have drafted and appended to the resolution supplemental sections 2 to 11 and in the departmental report, which is here before us today, there is a further supplemental section 12 which will be discussed when the departmental report is before you, and will be presented by officials of the Indian service.

I have stated as best I can the value of the Government. It is not measurable in dollars. It is the heart of the entire Missouri River project. The project itself, estimated at \$3,000,000,000, probably will cost in these days \$7,000,000,000, and it includes all of these great dams, 105 of them, 5 of which are on the main stem. We cannot guess at the dollar value, but we can guess at the project value.

The entire project would fail without Garrison Dam.

Now, on the other hand, what is the value of the land to be taken from the Indians? We are here asking for \$14,605,625. That includes the original appropriation which was made by the act of July 31, 1947, the Civil Functions Act of fiscal year 1948. That appropriation was \$5,105,625.

Mr. MORRIS. That is the same amount as set out on page 4 of the bill?

Mr. CASE. Exactly. Page 4 of the bill is a quotation from the particular act we are referring to.

What is our justification for asking for \$14,605,625? It is a very substantial sum of money.

There are two items there. One of them is 3 million dollars for land readjustment fund, and the other is 6½ million dollars to provide adequate compensation.

If we are to provide adequate compensation the question naturally arises, "What is the value that you are surrendering that you want compensation for and why do you want that particular amount?"

We have prepared a statement of account. This is the first time it has appeared before any of the committees in the years that this battle



has been going on. This time we have stated an account based upon what we believe to be the value to the Indians of the land to be taken.

In the taking area of 155,000 acres, lands are divisible into five classifications. Of the taking area portion of the land, some 25,000 acres is readily irrigable land. It is the most beautiful slope from the hills in the valley. It is not level. It slopes slightly toward the river itself. All it needs is an intake station on the Missouri River, a settlement basin, and the ditches, mains, and laterals to provide irrigation for this land.

Of the 25,000 acres we believe it is worth \$125 an acre as potentially irrigable land. We think we are entitled to the same measure of compensation that the people of Oklahoma are, and in *Grand Dam Authority v. Grand Hydro Corporation* on November 2, 1948, the Supreme Court of the United States held that evidence of the potential use of the land, not restricting it at all to any one particular use, but the potential use of the land was evidence which must go to the jury in condemnation. If it goes to the jury naturally that is for the jury to consider in fixing the value in condemnation.

We are not in condemnation. We are before the Congress asking that this matter be adjusted, rather than to fight it out in the court, and we have the opportunity here. Frankly, we feel that this committee in this Congress has the opportunity to make a settlement with these people based upon fair and honorable dealings, and that language is quoted from the act of August 13, 1946, the Indian Claims Commission Act, where the Congress made the declaration that that should be the policy

Mr. MURDOCK. Mr. Chairman, may I ask the witness a question?

Mr. MORRIS. You may.

Mr. MURDOCK. Do I understand from your previous statement that if the great project were not undertaken, if Garrison Dam were not built, with slight or minimum expense you could have an intake station here [indicating] and make this an irrigation project without the dam below? Is that what you were saying?

Mr. CASE. Yes, sir. That would be a pumping project.

Mr. D'EWART. Would you yield a minute?

Mr. MURDOCK. Yes.

Mr. D'EWART. I doubt if that is altogether true, because the fall of the river is practically nil. The 2,500 miles it has to fall from the North Dakota line elevation is 1,900 feet down to the Gulf of Mexico at zero. That is a distance of roughly 2,500 miles, and makes it roughly 1 foot to the mile. You cannot take out irrigation ditches and irrigate with that fall.

We are irrigating some in Montana above that, and when there is no more fall than that we have to pump.

Mr. MURDOCK. The pumping would be done here, and the canals would lead along the contour lines?

Mr. CASE. It is a pumping project. It is not a gravity project.

Mr. D'EWART. That is right. There is not enough fall.

Mr. MURDOCK. How many acres would you imagine could be put in a separate project if it were done?

Mr. CASE. The Interior Department is the authority for my figure of 25,000 acres. A personal inspection by myself, with the Chief Engineer of the Indian service, and my own familiarity with land

areas, plus the Chief Engineer estimate of the area, plus the Interior Department survey, shows the 25,000 acres of readily irrigable land. All we need for that project is Fort Peck power. If we have electric power it can be done economically and profitably. Without that you could not do it at all.

Mr. D'EWART. I agree that it is a feasible pumping project, but not a gravity project.

Mr. MURDOCK. I do not want to be misunderstood. I just wanted to get a clear picture.

Mr. CASE. Yes.

Mr. MURDOCK. I have never been in that country. Of course, I am very much interested in reclamation in all the West and in all of these various phases. I am thinking of the larger problem. We cannot any more depend upon isolated problems here, and another one there, in a great river system. You have to take the thing as a whole.

Of course, this will have to work in as the development of the Missouri Basin as a whole.

Mr. D'EWART. I would like to bring out one point.

Mr. MORRIS. Yes, Mr. D'EWART.

Mr. D'EWART. You place your value of this irrigated land without irrigation at \$100 an acre. The Bureau of Reclamation has an anti-speculation law under which they do not permit capitalizing any benefits that will accrue. In the Columbia Basin unit they fixed the value of that land, which is just as good, at \$20, not permitting any value to be added because of the construction of irrigation projects. Owners of that land have been held to that price, as you know.

Mr. MURDOCK. That is right.

Mr. D'EWART. \$20 and less.

Mr. CASE. That, of course, we recognize. However, we do not come under the statute for the reason that we are here about a settlement and not to either abide by or contravene the statute in the Columbia River Basin. We suggest the \$100 per acre as the best information obtainable as to lands that are prospectively irrigable where water and power are at hand.

Mr. LEMKE. May I suggest, also, that we are here to give just compensation under our Constitution for lands that were taken for public use.

Mr. CASE. Yes, sir.

We have another element of value which has importance at this point. It is not capitalized, nor is it taken into account here. That is the value of this 155,000 acres of land which is in trust status. It is nontaxable. It is nonalienable. It cannot be made subject to a judgment, even though it is a personal-accident judgment.

The value of land in that status to the owner is, and I quote Senator O'Mahoney on this, "Three times the going value of that land on the market."

We did not take advantage of that element of trust status for the reason that we expect, as we will develop later on, to buy other lands to take the place of these lands, although we cannot buy lands anywhere near as good as these lands.

If we buy those other lands the bill provides, the contract provides, and the resolution provides that the title shall be taken in the name of the United States and trust patents shall be issued either to the



tribe or to the individuals, thereby retaining the trust character of lands that will be acquired to take the place of the lands we will lose.

Mr. D'EWART. Mr. Chairman, I have some remarks on that a little later. I do not know whether it is the proper time or not, but I have discussed it with Mr. Lemke. That trust status is going to get you into trouble, and we will go into that at another time.

Mr. MORRIS. I suggest that we permit the witness to finish his statement, and then there are some questions that probably all of us would want to ask. Go ahead.

Mr. CASE. The 25,000 acres at \$100 is \$2,500,000.

Interspersed but nearer to the river is a large area of timbered lands. It is already forest. It is one of the finest forests on the Missouri River bottom anywhere up and down the river. It is characteristic Missouri River bottom timber. The bulk of it is cottonwood, but there is ash in quantity, box elder, willow, and various other trees.

That timbered land will be referred to many times in this discussion. It is of the same character of soil as the land we refer to as readily irrigable, and that soil is alluvial loam, so classified by the Bureau of Soils, Department of the Interior. It is the richest land anywhere on earth, as Congressman Burdick said yesterday, with the possible exception of the Nile Valley.

The land on which this forest stands, if the forest were taken off, would be irrigable land. It has the potential value of \$100 an acre, but we recognize that it will cost considerable to clear the land. It would cost more to clear the land of the stumps and the roots and all of that than the timber would amount to, if you cut it and sold it, so it is going to be a loss there, or at least a figure below \$100 an acre.

We suggest that the forest area of the land alone, 40,000 acres, should be \$40 per acre, and the timber standing thereon should be \$30 per acre. That gives us our figures which are gross figures and not capitalized, as appears later on in relation to some of these items.

Then, above the forested area and above the irrigable land but still within the taking line, the area shaded in blue on that map, there is the remainder of 90,000 acres, making a total of 155,000 acres in the taking area that the Indians are losing.

That land is adjacent to the Missouri River. It lies below the high hills. It is a very excellent piece of land. It has the same characteristics. It is alluvial. It is higher than the irrigable area, but it is the finest grazing land on the reservation. It is immediately adjacent to water, and there are springs and shallow wells in quantity.

All of us who are from the West know that it is the cattleman's ideal to say, "I have my stock on grass and water." Here they have their stock on grass and water. We feel that that is worth, due to its conjunction with these other factors, \$30 an acre—90,000 acres of the bench land at \$30 per acre.

Then we have the grazing land, which is the residual area, what would be left of the reservation. That is a summer range for our cattle, and in a fairly wet year we can graze the present herd several times over on that 430,000 acres.

Due to its conjunction with the Missouri River Valley it has distinct advantages in a matter of price. We set that at \$18 per acre.

That closes our present statement as to what the land is worth to us.



We have next the question of the natural and wildlife products. These are those things which are annually taken by the people that do not require any human effort up to the point of actually taking them into human possession.

We are not capitalizing lignite in the ground. We are only capitalizing the use value of lignite that we now use. We are not introducing here anything other than the natural products which the people take, and there being some 360 families, we find upon a careful examination of the individuals—some 14 of whom are here and will be glad to respond—that the families use annually 12 cords of wood for fuel, and that the cost of those 12 cords would be an average of \$12 per cord. That would result in \$51,840 of use value to them.

Now, it does not cost them that, because the wood is theirs and the only expense is cutting it down and chopping it up.

That amount is capitalized at 4 percent. Frankly, that is an arbitrary capitalization figure, but we feel that 4 percent is a standard bank loan which can be properly financed. We feel that the 4-percent figure is not too high to use as the basis of capitalizing the amount to reflect the total value over any given period of years.

We have, again, in item No. 7 the annual use of lumber and posts. In a cattle country posts are very important. Fences must be maintained. Lumber is continually in demand for repairs, replacement, and building of new homes.

We have computed the use per year as closely as it is possible to do so, and we have computed it at \$150 per family on the same 360 families, or \$54,000 per year.

When it comes to lignite, item No. 8 in the account, after this tribal council reached Washington, and when we went over these figures—

Mr. LEMKE. Mr. Chairman, may I ask the witness to explain a little more fully his capitalization? Just how do you arrive at it? I think it should go right here in the record.

Mr. CASE. If we get any given number of dollars with no effort whatsoever, except the taking of the products, the value is not represented by the cost. It is represented by what it would cost if we had to buy it. That sum represents an asset behind the taking, which itself has a value.

If we say that 4 percent is what the property should earn, what money loaned should earn, then the annual use value is equivalent to a fair earning on invested capital, and the fair earning on invested capital, we think, is 4 percent. We do not go as high as the legal rate of interest. We feel, on the basis of what grade A bonds should bring, that that is a proper amount. We have not figured it on United States bonds, because of the very low rate of interest on them.

Mr. LEMKE. Would you say 4 percent for 1 year, or for how many years?

Mr. CASE. For each year.

Mr. LEMKE. For each year indefinitely? Where do you wind it up?

Mr. CASE. If we have a bond and the bond is in our safe-deposit box and annually we draw 4 percent interest on that bond, it passes on until the bond itself expires or is paid off. If it is a United States bond itself, we think it is perpetual, or forever.

We do know this: That land is perpetual. When that land goes, the human race goes with it. So it is a perpetual annual taking of value from these lands.



Mr. LEMKE. However, you have lumped it here as \$1,350,000. How did you arrive at those figures?

Mr. CASE. You divide the \$54,000 by 4, that being the annual value of the lumber and posts, as an illustration, and then multiply by 100. That is the sum of \$1,350,000, which at 4 percent interest would produce \$54,000 annually, perpetually.

Mr. LEMKE. The 100 represents what?

Mr. CASE. 100 percent. If you had a bond in a bank for the sum total of this amount, \$24,561,000, and you annually drew your interest, whatever rate it was, your bond stays there. You do not invade your invested capital. That is the invested capital of these people, the land. This is the annual interest that they take off the land in the form of wood and lumber, fuel, wild fruit, and game.

Mr. LEMKE. For how many years?

Mr. CASE. Perpetually, as long as they stay there. As long as they annually take it they are entitled to it.

Mr. LEMKE. I realize that, but you are now capitalizing it to get into a final lump sum.

Mr. CASE. Yes, sir.

Mr. LEMKE. I was wondering, for the committee's information, how you arrived at that.

Mr. CASE. Take any sum which will at 4 percent produce the amount of the indicated use value of that particular item for any one year and each succeeding year. That is a standard method of capitalizing value, and I am very glad to have the opportunity to state it for the record.

Mr. D'EWART. Mr. Chairman, I still do not understand. Let us take the \$54,000 for item 7. You have \$54,000 at 4 percent, and you arrive at \$1,350,000. Would you tell me how you figure that?

Mr. CASE. Yes.

Mr. MORRIS. Let me see if my understanding is right. You mean that 4 percent of \$1,350,000 is \$54,000?

Mr. CASE. \$54,000.

Mr. MORRIS. The way it is arrived at there it does not quite come out. He means that the lumber and the posts, and the wood, for the 350 families, at \$150 per family, is \$54,000 annually.

Mr. CASE. \$54,000 annually.

Mr. MORRIS. Therefore, the value of that, figured on the basis of 4 percent of the capital value, would be \$1,350,000. That would be the value of the property at 4 percent, and that would be the annual revenue from it.

Mr. CASE. Yes.

Mr. MORRIS. Or an annual use of it, so far as value is concerned. Is that what you mean?

Mr. CASE. That is right.

Mr. LEMKE. May I make a further suggestion, to see if I understand: In other words, \$1,350,000 is the bond you or I may have to pay interest on, and this is the payment for the bond?

Mr. CASE. Yes, sir. The annual interest.

Mr. MORRIS. Whether that is correct figuring or not I do not know, but that is the way he is figuring it, as I understand it.

Mr. CASE. Exactly.

Mr. LEMKE. Very well.

Mr. CASE. I stated before, and I repeat it: On item No. 8 we did not capitalize lignite in the ground, although it is of value. There are two reasons for that, Mr. Chairman.

One is that the lignite will appear in the appraisal at a few cents per estimated ton. We have nothing to do with the appraisal. It will be made by the Interior Department under this bill and approved by the Corps of Engineers, with regard to the appraisal of land.

Incidentally, that land will be paid for out of the previous sum of \$5,105,625.

Mr. MORRIS. I think I understand it generally, but will you explain for the record just what lignite means. What is lignite?

Mr. CASE. Lignite is the soft coal in the process of formation. It is nearly pure carbon.

Mr. MORRIS. It is good for fuel, but it does not have much commercial value, does it?

Mr. CASE. It makes an excellent fuel. It burns with a clear ash without clinkers. It now has a potential value which it never had before, which is because we have perfected the reduction process. We find that lignite is indefinite in amount. It is extensively found throughout the entire area of North Dakota, and it can be reduced to coal-tar products and the vast magnitude of plastics and other things.

Mr. MORRIS. Byproducts?

Mr. CASE. Byproducts of the modern coal industry. Lignite, however, is not subject to successful storage.

Mr. MURDOCK. Have they made gasoline or liquid fuel from it?

Mr. CASE. There is a pilot plant now making liquid fuel direct from lignite by the electrolytic process. It is entirely feasible. That is only one thing which needs power. When power is available we have an inexhaustible supply in our bituminous coals, and this low-grade coal.

Mr. D'EWART. I think you are getting a little hopeful. We wish it were true, but it is not quite true.

Mr. CASE. Perhaps that is a prophecy rather than a fact, but it does appear that we have, let me say, an enormous supply available for reduction into usable fuels.

Mr. LEMKE. Right there may I ask for a little further explanation?

I think I am quite familiar with lignite. A few years ago we could buy it at Fargo at \$4 and \$6 per ton. Now I would say that two-thirds of the State is heated with lignite. The briquettes of lignite sell at about the same cost or a little less than other briquettes made from Pennsylvania or bituminous coal.

Also, there are some 6 or 7 billion tons of lignite in the State. I am estimating that there are at least 5 billion tons under this property which is being taken. The Army itself figures it will have 6 million tons by just building this dam, of the lignite, which they will have to extract while building the dam.

I noticed when I was up there that quite a lot of it was not being separated, but was simply going into the dump. They just take the better part of it. That gives you an idea of the immense amount of fuel that is fast becoming commercial, not only in our State, but in Minnesota, which now uses a lot of North Dakota lignite, which a few years ago was impossible. They did not use it at all, then, because the Pennsylvania coal was cheaper in the amount of heat pro-



duced. Now, since the Pennsylvania coal has gone up the lignite has come up in proportion.

Mr. MURDOCK. May I ask a question there? How much of that will be covered by the water when the reservoir is formed?

Mr. CASE. All of the present outcrops on the entire reservation will be under water. The high hills break down into the Missouri River Valley. On the side of those hills where erosion has taken place are these outcrops. They are visible from the highway.

These Indians go to those outcrops, knock off a little bit of the overburden, and with pick and shovel they load their trucks and haul it home. It is not good for long storage. Lignite slacks in air. It also slacks in water. It reduces itself by oxidation to dust so fine that it disappears with each wind, and this is an area where we do have real wind. The wind blows nearly all the time.

A ton of lignite put in your back yard in the open in the fall of the year would be just a black spot on the ground, if you did not touch it at all but just left it there long enough, because the slackage and the windage will take it all away, and you will have just a dark spot where the lignite was.

Mr. D'EWART. I think the committee would be interested in this: Do you know that the Army expects to mine about 6,000,000 tons of lignite in digging for the dam site, and they do not know what to do with it. If they sell it it will break all of the coal dealers in our friend's district.

Mr. LEMKE. I may say that some New York interests are interested in that 6,000,000 tons, but the question is that it would interfere, as Mr. D'Ewart says, with the private dealers. It has been a question as to how to handle it.

Mr. CASE. We did not capitalize it, as I have stated, at some length, but we did capitalize our annual use value on the same basis. That is a cold country. They have 7 months of winter. Lignite is used for cooking as well as heating. It means a 12-months' use of lignite, as well as wood, because you must have some wood to start a lignite fire.

The annual use of lignite is 25 tons per family.

Mr. Lemke just stated that \$6 per ton was what it could be bought for previously in North Dakota. We used the figure of \$6 per ton as what the Indians would have to pay out if they did not have this lignite and they had to buy it.

However, it does not cost them anything except the effort of picking it loose and shoveling it into a truck. We are not scraping our reserves. They are there for 1,000 years. If these tribes stayed there and used that lignite they have enough for 1,000 years. All of it will be covered by the reservoir.

We have two other elements based upon the same method of representing the capital amount which they represent. We have the wild fruits in the account No. 9 and the game in the account No. 10.

The only question that might arise there, it seems to me, would be as to the number of animals killed each year, and I will say to the committee that these figures have been compiled from a close examination by these people who sit here in this room. They are the ones who know. They are the ones who go in in person and take the deer and beaver, and as to the number, this is their own estimate and not mine.

Mr. D'EWART. Mr. Chairman?

Mr. MORRIS. Mr. D'Ewart.

Mr. D'EWART. I think you should tell us why you think this game would be depleted. At Fort Peck, which is a short distance above this reservoir, the building of the reservoir increased the game rather than depleted it in any way.

Mr. WHITE. You would not say that for deer, would you?

Mr. D'EWART. Yes, deer and antelope, both. We have more game than we ever had before.

Mr. CASE. Also, without the reservoir being here we now have more game than we had previously. The game in that area was seriously depleted at the time the buffalo were all killed off. With them went the deer.

As to the effect of the reservoir on the deer population, the deer hunt the shelter of the Missouri River bottom exactly as the cattle do. It is a matter of instinct with the animals. They hunt this bottom in the wintertime. They fed there in the wintertime. They are self-maintaining and self-sustaining.

We have nothing except the sportsman's pleasure of shooting a deer and bringing him home. We have the acclaim that a hunter usually receives when he is successful.

Annually we are getting now about 700. After that reservoir is in there is no place left on these high lands on either side of the reservoir where the deer can live and propagate and increase, or even sustain their number.

As to the beaver, the beaver are permanent animals. They build their own dams and they build them on the little streams. They do not build them on what we could call the big water. No great lake and no reservoir such as this with a fluctuating shore line will ever produce a beaver dam. The beaver only build on the little streams, and we have a number of them all on the lower stretch which goes into this reservoir. The water backs up those little streams and it puts it beyond the power of the beaver to build his customary dam. We will lose the beaver.

We did not put this into the account, but we will not lose the muskrat and mink. The muskrat and mink will increase. It may be to a small extent that they will take the place of the skin value of the deer and beaver. However, beaver hides are worth very much more than mink hides. We suggest that the price of beaver is \$40. I can buy finished farm mink in Washington, D. C., for \$30. That represents a price to the mink farm operator of \$15.

Mr. WHITE. Do these beaver have to be marketed through State agencies?

Mr. CASE. No, sir; they are taken by the Indians under their treaty.

Mr. WHITE. And they can be marketed? They find a market without having to go through the State agency?

Mr. CASE. The Indians comply with the State law, when it comes to the shipment of those skins away from the reservation. The same is true with the deer hides and practically everything else.

Mr. WHITE. In many places in my State they have to be marketed through a State agent, and the State takes a very substantial part of the money. I did not know whether that obtained on the Indians here.

I do not want to delay your testimony here.

Mr. CASE. I would have to ask the Superintendent just how that operates at Fort Berthold. I do not think we are paying anything. Mr. Rifle, are we?



Mr. RIFLE. No. Whenever the Indian has a beaver to sell, we ask the State Fish and Game Commission to give us the tags. I think there is a charge of 25 cents per tag.

Mr. WHITE. I think that is a good point to clear up, so long as you are putting the beaver down as one of your assets.

Mr. CASE. Yes, sir. We have here with us, as one of our delegates, Mrs. Byron Wilde, a housewife and mother of a sizable family. When Mrs. Wilde's turn comes in the orderly presentation here, she will expound, not only as to the wild fruit, but she will also make a statement in regard to the domestic life in general. We do take a very large amount of natural wild fruits, and it cost merely the effort of picking.

We have no cultivation. We have no planting. We have no pruning. We have no spraying. We have no pests or mold or insects, and no Japanese beetles in that area, and I hope there never are any.

There are none of the things that the eastern fruit grower has to contend with. If we were to buy the fruit we now can take off this Missouri River bottom, it would cost us a substantial amount. The chances are we would not have it. We would not be able to get it.

There has been a comment by the traveling school inspector that the children of the Fort Berthold School are brighter, keener, better-appearing children, evidently better stocked with the essential vitamins that come from fruits. This is a real, wonderful garden made by nature, and we take the annual crops without any cost to us whatsoever.

The next and the most important item to these people is the value of the Missouri River bottom as shelter for livestock. We have, now, approximately 1,000 head of Indian cattle on the reservation. There are also some 10,000 head of white-owned cattle that graze there in the summertime only.

Nearly all of our cattle hunt the Missouri River bottom when the winter breaks upon them, and there they are protected almost completely from the winds and from the bitterness of the cold.

The wind plus the cold is ruinous to animals and humans. Last winter, the most severe winter in our memory, the most severe in our traditions, found nearly all of our cattle in the Missouri River bottom, and those which went in there ahead of the storms that broke on the 2d of January last were so well protected that we are sure we did not lose one single head of the stock by reason of the terrific storms, where the winds ranged from 60 to 70 to 75 miles per hour, and where the temperature stayed at 30 degrees below nightly for 30 straight nights. Yet our cattle survived.

Mr. WHITE. What was the percentage of loss by the Indians last winter on cattle?

Mr. CASE. We had a very low percentage of loss for the reason that nearly all of our cattle were in the bottom. Some of them drifted in after the first storms broke, and those had a very difficult time getting down into the bottom, and some of them perished on this land. Not many.

Mr. WHITE. I just want an approximate figure.

Mr. CASE. I can give you the figures from another reservation down the river, the Cheyenne River Reservation in South Dakota, where the loss of the cattle on the upland during the recent terrific storms was 20 percent.

The loss of the cattle which succeeded in getting into the Missouri River bottom was 2 percent. That was the definite experience for last winter.

We had so small a loss that we cannot figure it in percentage.

Mr. WHITE. It is my information that a barn shelter does not help the situation much. When the cattle are turned out of the barn to get water they freeze quicker than those cattle which lay out.

Mr. CASE. I believe that is true. The only substitute for what we now have are the cattle sheds that are open on the east or the southeast side, under what shelter we could find in small ravines on the residual reservation.

May I invite your attention to the map that shows in yellow the residual reservation, and shows the blue or light green—

Mr. WHITE. That is in the State of North Dakota, is it not?

Mr. CASE. North Dakota—that is the Garrison Reservoir from the dam at Garrison up to Williston, the headwaters of the great reservoir that will be in effect when the dam is completed.

Mr. LEMKE. May I just make a contribution, to also call your attention to the map: It divides the remainder into five parts, and nowhere will there be a bridge built or a possibility of a bridge to connect those five different parts. The land taken is not only the value taken, but the separation, and the damage done to the rest, whatever remains, is complete. Also, it is quite obvious.

Mr. CASE. It is.

Mr. WHITE. They would have to travel far to transact business from one side of the river to the other, is that it?

Mr. LEMKE. Yes. And you have to travel a long way to get acquainted with each other.

Mr. CASE. The map itself shows that it will run from 2 to 10 miles. By the section lines we can compute the width of what the lake will be.

Mr. WHITE. You have not put an estimate on that damage, have you? A farmer, when his land is cut in two by a right-of-way for a highway, generally speaking, estimates what the damage is to his farm. Is that damage carried in this calculation?

Mr. CASE. In this way: When you take out the Missouri River bottom and cut the residual reservation into five segments, you have destroyed the continuity of your cattle operation entirely. You cannot get them across that lake. You will have to maintain cattle enterprises in each one of those sections.

Mr. WHITE. Did you say five or three?

Mr. LEMKE. Five.

Mr. WHITE. I see from here three, but I do not see five. There is one on the north side and two on the south.

Mr. MORRIS. Here they are: 1, 2, 3, 4, 5 [indicating]. Is that not right?

Mr. CASE. That is correct. The only way, Mr. Chairman, that we can reach even an estimate on the value of this timber is first to point out how successful it is as winter shelter, and second to say, "What substitute could we use if we did not have the timber?"

Mr. WHITE. You are talking about timber?

Mr. CASE. Timber.

Mr. WHITE. Cottonwood timber?

Mr. CASE. Most of it is cottonwood. There is elm and ash and some other hardwoods.



Mr. WHITE. There are no evergreens?

Mr. CASE. No evergreens on that bottom. The conifers are in the hills, in the breaks.

Mr. WHITE. You do not have much in the way of conifers in that country, do you?

Mr. CASE. Not a great deal. It is not merchantable in quantity. If we build cattle sheds it is our conclusion, and, frankly, we think our own conclusion is conservative, that for 60 head of cattle it will cost \$3,000 to build the shelter. That is a poor substitute.

Mr. WHITE. You do not anticipate or contemplate that a shed would be of very much value, unless it were closed in, do you? The wind would blow in right through the shed.

Mr. CASE. It does, but it breaks the wind, sir. The cattle will collect en masse under a shed which is built with an upright back.

Mr. WHITE. That is not a practice in South Dakota or Eastern Montana, is it, to build shelter sheds?

Mr. CASE. We have a great many of them.

Mr. WHITE. You do? I visited some pretty big ranches out there, and I have never seen them.

Mr. CASE. Most of the larger ranches have some area they can use for winter shelter. Those who had none were the great sufferers in the last winter.

Off the record.

(Discussion off the record.)

Mr. CASE. If we are required to spend \$3,000 as a construction cost, and if we take the normal life of a wooden structure in that area, taking into account that it is wood and subject to fire, that it is of light structure and necessarily subject to blow-downs and to a certain degree subject to rot, if we take a 10-year period and distribute the initial cost over the 10-year period, we would have an annual outlay of \$54,000 annually. We would necessarily maintain that. That is for replacement, repairs, and so forth.

Mr. WHITE. You do not anticipate that you would have to build a new shed every 10 years, do you?

Mr. CASE. Undoubtedly. Rot will be sufficient there in a 10-year period so that we would need replacement.

Mr. D'EWART. Mr. Chairman, I would like to have the witness talk to my income-tax collector, because I have some of these on my farm.

Mr. MORRIS. You want that depreciation?

Mr. D'EWART. I would like to have it.

Mr. WHITE. If you would depreciate it in 10 years you would be worse off after that. Then you would not have anything to deduct.

Mr. CASE. Congressman, I am a member of the Treasury bar and have practiced income-tax law for a period of time. You can take 2 percent depreciation on fixed structures, 5 percent on wood structures, and 10 percent on light wood structures. That is annual depreciation. Ten percent is the customary depreciation on office furniture and fixtures. That is allowable by the Treasury Department.

I did not know I was going to get off into that subject. However, I happen to be familiar with it. I carry the card right here, if you wish to see it, which permits me to practice law before the Income Tax Division.

Mr. MORRIS. We will take your word for it.

Mr. CASE. If we had that annual cost, prorating the initial construction cost, adding the annual replacement, repairs and reconditioning, we are facing an expenditure of \$125,000 a year over a 10-year period, and it would have to be continuous, if we stay in the cattle business. For that reason we do capitalize that again at 4 percent. We say that the asset value to us of the shelter in the Missouri River bottom for cattle alone is worth \$3,125,000.

Mr. WHITE. In 1933 I shipped in 100 head of cattle, and received \$10 a round. You would be in a losing position in that case, if you did that, would you not?

Mr. CASE. Very much so, sir. I would like to say further that these items, both as to the land and as to the natural products stated in this account, are based upon a reasonably good year, reasonably good prices for agricultural and similar products. If we were required to go back to the drought period of 1934 we could not say what we say here. If we go into a period of still higher prices, it would necessarily increase.

This is the going-concern value to us, but we sincerely say to you that the going-concern total value of the reservation is \$24,561,000 to us.

If the members will turn to page 6, I wish to point out an item, which, in our opinion, confirms the value of \$24,561,000.

As against that, we have the 5 residual segments of what once was our reservation. They are the highlands. They are the summer grazing lands. They do not have abundant water in that area.

The Missouri River and the lower streams are where the water comes from, all of which is lost.

If Congressman Burdick were here, I would ask him to state again what he has stated before, that this grazing area, when the wood and water and excellent grazing of the bottom land is taken away from that other high area, is such that the high area is worth one-third of what it is now estimated to be worth. We do not believe you could find a market for it at \$6 per acre, when you destroyed your winter shelter, when you destroyed the peace of your grazing land, and when you have made it almost impossible to maintain an integrated cattle industry.

We have no trouble now in maintaining an integrated cattle industry. We are, of course, cut in two by the Missouri River, but it is our river and it is well bridged. We can move our stock from one side of the river to the other.

This land must be appended to some land that has winter shelter, to be useful. It might be used as summer grazing land only. It is not satisfactory to maintain the great herd we intend to establish here. We now have 8,000. We expect to run that up, as we are now doing. We are increasing the cattle herd year by year. We expect to run that up to at least 18,000 head.

Mr. WHITE. Will that land support that many, without overgrazing?

Mr. CASE. It will, provided we furnish winter food and winter shelter. There are now on the reservation 8,000 Indian-owned cattle and approximately 10,000 privately owned cattle, and the reservation is not being overgrazed.



Mr. WHITE. What do you charge for the season, to graze those cattle?

Mr. CASE. I will ask Mr. Rifle to state what the white lessees pay for that.

Mr. WHITE. How do you base your grazing fees for the cattle brought in?

Mr. RIFLE. Twenty-one cents an acre, and the operator is not permitted to have more than one adult animal on less than 25 acres.

Mr. WHITE. Does it take 25 acres to support one head of cattle?

Mr. RIFLE. That is done to preserve the range and to see that it is not overgrazed.

Mr. WHITE. Twenty-five acres for one. Did you say 18 cents an acre?

Mr. RIFLE. Twenty-one cents an acre.

Mr. WHITE. That is for the season?

Mr. RIFLE. That is for the year; yes.

Mr. WHITE. I do not want to be repetitious here, and I do not want to delay this hearing. However, this item of \$2,580,000 for grazing land is very important. Are you going to lose that land, or is it that there will be that much damage to it?

Mr. CASE. The item at the top of the page of the high grazing land is the land that will be left in the possession of these Indians in these five segments which we referred to on the map. They have been valued at \$6 an acre, and that amounts to \$2,580,000, which is deducted from the total value of the reservation of \$24,561,000.

Mr. WHITE. I do not want to get into technicalities, but 21 cents an acre on a \$6 valuation is not very much of a return, is it?

Mr. CASE. This land itself is worth more than that to us. We estimate its value to us as part of this unit, with the winter shelter, the water, and everything else provided free, to be much greater. We estimate that upland to be worth \$18 an acre, but after the facilities are taken away we are in the same position as you would be if you had an automobile and somebody took your engine away, and you could not buy another engine. The rest of the automobile would be very seriously depreciated. The fact of the matter is that it would be junk.

Mr. WHITE. Let me ask you one or two more questions.

Mr. CASE. Yes.

Mr. WHITE. Has the Government come in and appraised this or made any offer of settlement, or made a settlement? What is the process of this thing? This is a bill. What has the Government done outside of legislation? Have they come in and made an appraisal? They have the authority under the law to do that now, I believe. I have an idea that they can settle this and appraise this land and make the Indians an offer for the damage sustained. Has anything in that proceeding been done?

Mr. CASE. It has been done. There is a contract which has been made between the United States, acting by Lt. Gen. R. A. Wheeler, dated May 20, 1948, under which the original appropriation was \$5,105,000, which is to be used in this contract, and there is a provision for the making of an appraisal of land to determine who gets how much.

Mr. WHITE. What is the total sum involved under this contract?

Mr. CASE. Under this contract it is \$5,000,000.

Mr. WHITE. You are asking for \$21,000,000?

Mr. CASE. No, sir; we are asking for \$14,605,000.

Mr. WHITE. Would that include the \$5,000,000?

Mr. CASE. That includes the original \$5,000,000.

Mr. WHITE. In other words, you want an increase of \$9,000,000?

Mr. CASE. \$9,500,000 is the exact amount that this calls for, as the adequate compensation element which is not provided by the \$5,000,000.

Mr. WHITE. This bill here is the Lemke bill?

Mr. CASE. Yes, sir.

Mr. WHITE. What bill are you supporting at this time?

Mr. CASE. That bill.

Mr. WHITE. The Lemke bill?

Mr. CASE. House Joint Resolution 33.

Mr. WHITE. In the event that this Lemke bill is passed in its present form then you will get \$9,000,000 more than the Government offered you?

Mr. CASE. We will when the Congress appropriates it. This only authorizes the appropriation.

Mr. WHITE. This proceeding and this statement is to justify the provisions of the Lemke bill; is that the idea?

Mr. CASE. Yes, sir.

Mr. WHITE. This is a brief?

Mr. CASE. Yes, sir.

Mr. WHITE. This brief is in support of House Joint Resolution 33?

Mr. CASE. Yes, sir.

Mr. WHITE. I just wanted to know what it was that we are talking about.

Mr. MORRIS. All right.

Mr. WHITE. Mr. Chairman, I am sorry. I should have addressed the Chair. Pardon me.

Mr. MORRIS. That is all right, Mr. White. I do want every person to be fully familiar with this. However, we do want to move along as rapidly as we can. I do want each member to be fully familiar with the situation.

I think your questions were very pertinent and very well put.

You may proceed, Mr. Case.

Mr. CASE. Mr. Chairman, after we have determined the total value of the reservation we deduct from that what we think is the value of what will be left to us. We show the net loss to the Three Affiliated Tribes as \$21,981,000, which they are now facing.

We show that this resolution, House Joint Resolution 33, carries appropriations or authorizes appropriations to be made in the future of a total of \$14,605,625, which we are willing to accept in settlement.

Mr. LEMKE. Just so that I may get it very clearly, is this statement correct: The \$14,605,625 includes the \$5,105,625?

Mr. CASE. Yes, sir.

Mr. LEMKE. Which has already been appropriated?

Mr. CASE. Yes, sir.

Mr. WHITE. Has the money been allocated for this work?

Mr. LEMKE. It is already appropriated.

Mr. CASE. Appropriated July 31, 1947.

Mr. WHITE. It was carried in a bill. It was not allocated out of general funds?



Mr. D'EWART. It was appropriated and given to the Army engineers to settle this account, and we were not able to reach a settlement.

Mr. MORRIS. While you are on that point, let me ask you this question: You have built up a case for \$21,981,000, and you itemize your various elements of loss?

Mr. CASE. Yes, sir.

Mr. MORRIS. You say you are willing to settle for a total amount of \$14,605,625. May I ask you why you are willing to take that big a reduction?

Mr. CASE. We are only willing to do so because we recognize that the \$14,605,625 is a very substantial sum of money, that these are our estimates of value, and this is the loss we are going to suffer, but, nevertheless, we do not wish to be immodest or extravagant in our demands. We want an agreement and we want a settlement. The Interior Department is willing to recommend and does recommend the \$14,605,625. Here is the report.

Mr. MORRIS. In other words, you think that is really a fair compromise and settlement?

Mr. CASE. We think it is a compromise on both sides.

Mr. MORRIS. You think that probably this committee and the Congress would be more willing to expedite the matter and to actually take care of it under these circumstances than if you insisted on the amount you actually think you are losing by reason of this project? In other words, you think it would be a fair settlement and a fair and reasonable settlement, although it is less than what you think your loss actually will be; is that correct?

Mr. CASE. That is correct. We do; however, take all of this into account. It is entirely in the future. The possible benefits that may arise to the Indians by reason of the production of power at Garrison Dam is entirely in the future.

Mr. MORRIS. Yes. I can see that, although under the Constitution and the law the resulting benefit in a condemnation suit is not taken into consideration.

Mr. CASE. It is not taken into consideration.

Mr. MORRIS. No.

Mr. CASE. But, frankly, we do not want to be subject to condemnation. The intangibles we cannot get in at all. Only under the Oklahoma doctrine, as announced by me in the case I cited, decided November 2 last—only there, and because of the Oklahoma law which specifies that use value shall be taken into consideration, can you get such a verdict in condemnation.

Mr. MORRIS. As I understand it, and I make that statement as a statement of law, under our Oklahoma constitution the resulting benefits cannot be taken into consideration in a condemnation suit. I do not know whether that is the uniform rule or not, but that is our law in Oklahoma.

Mr. WHITE. That is, as an offset it cannot be taken into consideration?

Mr. MORRIS. You have to value the damage, and if there is some resulting benefit you get that. The jury must award you the actual damage, if any, that your property has sustained by reason of the action of eminent domain against your property, and the resulting benefit is not to be taken into consideration. That, as I recall it, is distinctly the rule in Oklahoma.

However, Mr. Case, I think you are fair in that, and I think in this kind of a settlement, not being in the nature of a condemnation proceeding, but in the nature of an authorization and an appropriation, if it gets to that stage, that there will be some added benefit to the reservation.

Mr. CASE. We are hoping so.

Mr. MORRIS. There is not any question in my mind but what there will be some benefit accruing, and I think it is a fair and reasonable attitude, and I appreciate, as chairman of this committee, your attitude, which at this time seems to be a very reasonable one. Of course, I want to think over the whole thing before I make up my mind definitely, but I do appreciate your attitude which does at this time appear to be very reasonable, Mr. Case.

Mr. CASE. Mr. Chairman and gentlemen of the committee, there are two things that we are anxious to avoid. One is a condemnation action with the hard-and-fast rules of the court invoked where we cannot ask for and would not get many of these elements which we say are prospective. The other one is above all things we wish to avoid being compelled to sue the United States in the United States Court of Claims for damages, where we must sustain those damages before we can sue for them. If we ever sustain those damages we will be a ruined community and have a lengthy lawsuit on our hands if we sue in the Court of Claims. I, myself, have had an experience of that nature with the Sioux people. I am attorney for the Sioux Tribe where they have an action now pending in the United States Court of Claims. I filed that action on the 7th day of May 1923, and it is now 1949, and next week it will be 26 years that the suit of the Sioux Tribe has been pending at the door of the Court of Claims and of the Supreme Court. I have been down to the Supreme Court five times with the Sioux case.

It is a lifetime of discouragement and disappointment for the 30,000 Sioux, and I cannot face the future for these tribes and tell them that they have any chance whatsoever if they are compelled to sue in the Court of Claims.

Therefore, that inspires in us a spirit of compromise, and when we can come to you and say to you we will take less than it is worth, we will turn it over to you for two-thirds of what it is worth to us, and that is exactly what we do if our figures are anywhere nearly correct. That is, I think, the real spirit of compromise and settlement. This is the only time in the history of the tribes, throughout the history of 150 years of dealings with the Indian tribes, this is the first time that a tribal council ever took that view on any matter and has come on to Washington at their own expense to negotiate a settlement with the United States.

We think, Mr. Chairman, that those factors should be taken into consideration by this committee.

Mr. MORRIS. We assure you, Mr. Case, that they will be taken into consideration. We cannot assure you now as to what we are going to do, but we assure you that we will take them into consideration.

Mr. WHITE. It is very customary in a claim of this kind in the case of an offer in compromise to take a certain figure that is less than the amount originally requested.

Mr. CASE. I have been practicing at the bar 40 years, and I have settled more lawsuits than I have ever tried, and with a good deal better results.



That, Mr. Chairman, concludes my general statement. I shall be very glad to answer any questions there are in the minds of the committee members.

Mr. MORRIS. I have followed your testimony very carefully myself, as carefully as I am capable of following it, and I have learned a lot about this matter, and you have given us many concrete facts to think about, not just generalities. You have generalized somewhat, but you have given us some concrete matters to mull over and think about, and those are the things we are particularly interested in.

Every honest person is interested in justice, and we are for justice, and so forth, but, after all, we must be practical people on many occasions and get down to something practical and determine what can be done, and I do appreciate very much the information that you have given us, Mr. Case.

Mr. CASE. Thank you very much, Mr. Chairman.

Mr. MORRIS. Do any members of the committee desire to ask any questions of Mr. Case?

Mr. WHITE. I think that this committee is very fortunate in having an eminent judge from the great State of Oklahoma as our chairman. I think that is a fortunate circumstance, both for the Indians and the committee.

Mr. LEMKE. I think we can all second that sentiment, Mr. White.

Mr. MORRIS. That is mighty kind of you.

Mr. CASE. I assure you that the Indian Tribal Council and the delegates feel the same way, Mr. Chairman.

Mr. MORRIS. That is very kind; thank you a lot.

Are there any questions?

Mr. WHITE. I think we asked our questions as we went along.

Mr. MORRIS. I believe Mr. D'Ewart indicated he had a question or two.

Mr. D'EWART. Yes. The witness in his testimony on the need of the project went a little beyond what I think the facts will, perhaps, sustain. We have two projects on the Yellowstone, and he stated that most of the mud and sediment comes out of the Yellowstone, one at Boysen, and one at Yellowtail, that we hope will take out most of the silt. One is under construction, and the other one is at a stage where it is ready to go into construction. That will take a good deal of the silt.

Now, Garrison Dam, as the witness has said, is one of the major projects on the Missouri Basin, but the other projects on the Missouri Basin are not predicated upon the construction of that, and the others can go ahead. All of the projects above the Garrison Dam would not be affected by it in any way, and the great Missouri-Souris project which brings water into the northern part of that area, would largely not be affected. Taking out Garrison Dam would take out your flood-control aspects of that project. It would hurt navigation to some extent downstream, and it would seriously interfere with irrigation in this area which is south of the dam. There is a project that is being considered to pump water out of Garrison Dam, using the electricity that will be generated there and take it north, perhaps, into Devils Lake. Those are the projects it would seriously interfere with. It would not interfere with dams down in Nebraska and Kansas, and it would not interfere with projects above it.

Mr. LEMKE. May I supplement that, if you will yield, Mr. D'Ewart?

Mr. D'EWART. Yes.

Mr. LEMKE. All of our testimony before the Appropriations Committee shows very clearly that the project is almost entirely navigation and flood control, but mostly navigation for a 9-foot channel down below. That was the original purpose of it.

The intent to fill Devils Lake and to irrigate 1,335,000 acres is contemplated by the Bureau of Reclamation to be done by the diversion dam in Montana over the Souris, the Missouri-Souris project, so that as far as pumping irrigation from Garrison is concerned, it is still a very moot question; it is an undetermined question.

Mr. WHITE. I will say to the gentleman from North Dakota that there is one damage feature that seems to have been entirely overlooked in the discussion here. We find in Montana that the Fort Peck Dam, by reason of the water being above the natural shore line, has created a bog and mire condition all along the reservoir, and the owners of the stock have had to go to big expense to fence away their stock, so that they do not get bogged down in this mire and die, and I will cite the case of Town brothers out of Molt, where they have had to fence in to keep their stock away from the river, because if they go down there to get a drink of water they get mired down by this bog created by raising the shore line of the reservoir. That might be a pretty serious cause of damage.

Mr. CASE. May I add a word to that, Mr. Chairman?

Mr. MORRIS. Yes, sir; you may.

Mr. CASE. One of the great hazards of our future life on this reservation is that the cattle in those highlands to the west of the reservoir would be compelled to drift ahead of the storm and would drift into the reservoir itself, and if that comes when the reservoir is opened, our herds would go right into the water and would be lost.

Mr. WHITE. In that type of weather condition, would you not think the pond would be frozen over the ice would be on it?

Mr. CASE. Yes; normally there would be ice.

Mr. WHITE. Out where I live they have just sustained very heavy damage by cattle getting out on the ice and going through the ice and being drowned.

Mr. CASE. Yes; they get on the ice and are drowned, if too many cattle get on the ice, the ice gives way, and if it does your cattle are gone.

Mr. WHITE. A lot of people took heavy losses in my State just on that last winter.

Mr. CASE. We recognize the necessity of erecting a heavy fence because cattle drifting before a storm in great numbers will go through almost anything in the way of a fence, or if not, they will pile up against the fence and perish there. We have a great hazard with our cattle industry. It probably offsets all of the benefits that will be derived from the dam itself. It is one of the hazards, and what is going to happen to our herds when the storms come on and the reservoir is open is a question.

Mr. D'EWART. I visited this reservoir site in company with Congressman Lemke, and we drove up and down the river and visited the reservation, and I agree with you that it is going to raise Cain with their livestock industry in that area. There is no question about that. The brakes, as we call them up in Montana, are places where stock



winter, and that is where you get your shelter, and it does raise a great deal of damage to them.

I do question a good deal your fear as to loss of the game in that area. That has not proved true in the Fort Peck area. We have improved our game situation. The number of antelope has increased and so has the number of deer.

We have a splendid bird refuge up there, and the fishing is wonderful in that area. It has grown so that we have quit planting fish. They multiply themselves.

Mr. WHITE. How do you account for the propagation of deer? What accounts for it?

Mr. D'EWART. I have visited the reservoirs down in the Tennessee Valley and they started planting fish down there, and they stopped planting them because they are so plentiful.

Mr. WHITE. Yes, I can understand about the fish, but how about flooding the land; how will that help the deer?

Mr. D'EWART. Well, it is largely because we first planted antelope in that area, and the deer were there naturally, and there is an area along the reservoir site which was established as a refuge and they are protected there.

Mr. WHITE. The Indians would not have any chance to hunt deer if you established any refuge of that kind.

Mr. D'EWART. You cannot have a refuge inside the reservation, but there is no reason why you could not have it above and below the reservation. Anyway, we established those refuge areas in the State of Montana, and the hunting is very good, and the reason the number of fish has increased is because of the very large amounts of good fish food in these reservoirs.

Mr. WHITE. Yes; I can understand that.

Mr. D'EWART. So, I believe, Mr. Case, that your worry about the loss of game is not grounded in fact. I think you will find that there will be more game than has ever been there before, perhaps with the exception of beaver.

Mr. LEMKE. Mr. Chairman, could I make an observation there?

Mr. MORRIS. Yes.

Mr. LEMKE. I was up at Fort Peck with you, Mr. D'ewart, and I noticed that there was timber and brush around the lake, but here there will not be a single tree there or any brush around it. It will be just naked prairie.

I will say that throughout our State a few years ago there were deer only in a few of the counties, or along the Missouri River or along the Souris River, wherever there was brush that the farmers put in there, which took about 20 years to grow.

Deer are now found in every county in the State of North Dakota, but not in abundance. Still the season on them was open this year, I think, only in the western counties. They seem to be depleted west of the river for some reason. Just how they manage to live, I do not know, in many of the densely settled counties, but it is because of the trees, and it is a question of how soon there will be replaced some kind of shelter along the reservoir when it is built.

Mr. CASE. Mr. Chairman, may I ask a question?

Mr. MORRIS. Yes, sir.

Mr. CASE. I would like to ask whose deer they are going to be. In case they are on the reservation they belong to the Indians.

Mr. D'EWART. That is right; on the reservation they belong to the Indians. When they go off this reservation they belong to the State.

Mr. CASE. Yes; but if there is an increase in the taking area, and there is a strip of land between their taking line and the water line, it will be excellent for grazing, and if the deer increase in that area, and they are under fence, they are not our deer, and we have lost them.

Mr. D'EWART. However, there is an area there where it is good game country.

I would like to say that your \$40 per pelt for beaver is out of line.

Mr. CASE. It is too high?

Mr. WHITE. I gave permission to a man to trap beaver on my place in Idaho, and he got \$36 a pelt for them after the State taking its tax.

Mr. D'EWART. Yes, that was during the war, but over a period of 10 years you could not get that for them. We have trapped beaver every year on our place, and we have sold them for as low as \$10 a pelt, but during the war you could get, occasionally, a good beaver with good color and get up to \$40 for it.

Mr. CASE. Yes.

Mr. D'EWART. I wanted to mention the trust-status land. I have not had the opportunity I would like to have to study the last three sections of these bills.

This is new material that was not before us last year.

Mr. CASE. House Joint Resolution 212, which was introduced by Mr. Lemke in the Eightieth Congress, contained substantially the same provisions as are set out in section 2 under 11 of the pending House Joint Resolution 33. I am sure the Congressman will remember that Senator Watkins, on the occasion of our joint hearing, insisted that this entire contract plus the entire provisions of House Joint Resolution 212 should be combined, as he put it, all in one package.

The only changes there, sir, are structural changes as to procedure, and one change in the land readjustment fund that is advocated by the Interior Department.

Mr. D'EWART. The point was made very nearly a year ago by the Senate committee that this must be a final settlement, and the bill that was brought in last year was not a final settlement.

Mr. CASE. Yes.

Mr. D'EWART. Does this take care of that?

Mr. CASE. Yes, sir; this recites that this is a complete and final settlement.

Mr. D'EWART. The Senate would not accept it at that time, and they sent it back because it was not a final settlement. So, I am sure under those circumstances, if this is not a final settlement that we would be wasting our time in sending it over there.

There is one more point that I would like to speak on briefly, and that is that these funds are going to be used to acquire trust-status land and trust-status property.

Mr. CASE. Yes, sir.

Mr. D'EWART. We have no objection to that so long as it is inside the reservation bounds, but we have found serious trouble in the



case of other reservations. I am sure you will agree with us if your trust status follows your money outside of the reservation, if you use this trust-status money to go into Williston to buy a lot, that becomes trust-status property and it is not subject to taxation, and cannot be said to meet the tax situation, and it upsets the whole county and city administration.

The same thing, I am told, would be true if you took this trust-status money and went to Los Angeles and bought a lot. It would be trust-status property and not Los Angeles property, and it would not be subject to taxation of either the county or city locally, and it upsets those property holders.

I think you will save yourselves trouble if you will limit this trust-status property to property that is inside the reservation boundary.

In Montana we are trying to get a bond issue to bring some sewer and water improvements into a certain city, but because of Indian trust status money there we cannot sell the bonds for the improvements, and that is a very serious situation, indeed.

All of this money undoubtedly will not be spent inside the reservation. Some of it may be spent outside in Williston, Bismarck, or Los Angeles, and I think you should not have trust status follow those trust status funds.

Mr. CASE. It is the purpose, Congressman, of the land readjustment fund to acquire by purchase the alienated area within the reservation, which is 44,130 acres.

Mr. D'EWART. I do not have any objection to the trust status there.

Mr. CASE. Of course, 44,000 acres is a poor equivalent for 155,000, but the purpose of the land readjustment fund, in addition to that, in addition to consolidating the landholdings, is to permit, where necessary, the purchase of adjacent land up the valley of the Little Missouri in order that we might get some winter shelter there.

Mr. D'EWART. We have taken the position that every place where we acquire land off an Indian reservation, outside the boundary of the reservation, the permission of county commissioners by proper resolution should be obtained beforehand, because you are taking properties off those tax rolls outside of the boundary, outside of the reservation. You remember we have objected to that in other cases.

Mr. CASE. There is, I recognize, a statute prohibiting the expansion of the boundaries of an Indian reservation by expenditure. We have that statute on the books, but this would permit the purchase of immediately adjacent land where it was necessary for the use of the Indians, particularly for wood, water, and winter shelter for their stock.

Mr. D'EWART. But that land, if it is outside the boundary of the reservation should be subject to taxation and should not be subject to trust status.

Mr. WHITE. I would be in favor of extending the boundaries of the reservation where they wanted to take land and add it to reservation.

Mr. D'EWART. You should have asked for an appropriation resolution from the taxing authority granting that permission before we took action.

Mr. CASE. It would be entirely feasible for the Interior Department to make the settlement with the local counties, and thereby ob-

tain their concept as to the establishment of the trust status on lands adjacent to, and, we would hope, contiguous to the reservation, as it will be in the future.

Mr. MORRIS. Was there anything else? This witness, as we all know, has been very comprehensive in his statement and has taken about 1 hour and 45 minutes.

That is well; I am not complaining about that at all. He made a very comprehensive statement.

It is to the advantage of you good people who appear here in behalf of this bill that we be as expeditious as possible. Legislative processes are very slow in their very nature. These hearings are very important and are interesting, but we can become bogged down in hearings to such an extent that we will not get the legislation through. We only have a certain amount of time that we can use for hearings. A portion of our time has to be used on the floor dealing with legislation and, besides that, there are different subcommittees in this one big committee. Each subcommittee, of course, has important matters to dispose of. A number of us are on several different subcommittees, so our interests are divided. Consequently, time is a very precious element with us, indeed.

I am not saying this in order to try to rush anybody. I do not want that. I want a thorough consideration of this matter, but it is to your advantage and to the advantage of the whole country that we do not waste time. Consequently, I may say to those of you who are going to speak on certain points and who have certain particular information to give to us that we would like you, to the best of your ability, to confine yourselves to your particular corner in the matter as best you can to bring the picture to us. Let us not have cumulative evidence offered in matters over which there is no controversy. Where there are serious controversial points, then it is necessary that we have cumulative evidence; that is, several witnesses testifying on the same point. However, if it is a point concerning which there is no controversy, it is an absolute waste of time for more than one witness to testify about it. If nobody takes any issue on the points, one witness is as good as a thousand.

I just make that observation so that it might be helpful; but, on the other hand, there is no disposition on the part of the chairman to rush along to such an extent that we cannot give careful consideration to the matter.

Now, Mr. White?

Mr. WHITE. I was going to ask, Mr. Chairman, if somebody was going to bring some other witnesses.

Mr. MORRIS. Congressman White, as is usually the custom, I always permit the Congressman who is the author of any bill to largely determine the sequence in which the witnesses come. I think it is only fair to him, and I think it is best procedure. Therefore, I will permit Congressman Lemke, since he is the author of this bill, to determine the matter.

Mr. LEMKE. The chairman of the council, Carl Whitman, Jr., will make his own statement; and asks that delegates and council members be permitted to do the same.



**STATEMENT OF CARL WHITMAN, JR., CHAIRMAN OF COUNCIL OF  
THE THREE AFFILIATED TRIBES, FORT BERTHOLD RESERVA-  
TION, N. DAK.**

Mr. MORRIS. We are happy to have you with us, Mr. Whitman. We are anxious to hear your testimony, and we are mighty happy to have you and the other good people you represent here with us. We are glad to have you here and we welcome you before this committee.

Mr. WHITMAN. Mr. Chairman, and members of the committee, I am Carl Whitman, Jr., Mandan Tribe of the Three Affiliated Tribes of the Fort Berthold Reservation.

I, as chairman of the council of the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., and on behalf of the entire council extend our apologies for not being present at 9 o'clock yesterday morning when the committee was ready to hear what we have to say in regard to the taking of the best part of our reservation for the Garrison Reservoir and Dam.

I wish to assure you that it was through a misunderstanding that we did not appear before 10 o'clock. We all thought that the hearing before your committee on House Joint Resolution 33 was scheduled for that time. We wish to express our deep appreciation to you, Mr. Chairman, and to the members of this Committee, for according to us this opportunity to be present today.

We are indeed glad of this opportunity.

In 1936, the members of these tribes adopted a constitution which was approved by the Secretary of the Interior under an act of Congress. Our constitution provides for a democratically elected tribal business council of 10 members, one of whom is elected chairman.

All the members of our council have come to Washington, D. C., because the bills which you are considering are of utmost importance to the future welfare of each of 2,215 of our members. Several of my associates will supplement my statement in order that the committee will secure a well-rounded picture of how the vast majority of our members feel in regard to the proposed bill.

Under our constitution, we, and we alone, are the spokesmen authorized to speak for our tribes in dealings with the Federal Government. Of course, we are happy for the committees also to hear the views of any other members of the tribe. We only want you to remember that we, like you, are the duly elected representatives of all our people.

Now as to House Joint Resolution 33, a similar bill was introduced on June 14, 1948, by Congressman Lemke under the number 426. The ratification of this bill was delayed due to the fact that a justification for money over and above the \$5,000,000 was asked by the committee. The delay did not affect the construction of the dam which is progressing rapidly.

This delay has been a source of very great worry and tension to us all. We are deeply concerned and very insecure. We see our best land being taken from us and we know not yet what our future will be. We are truly displaced people. Small though our numbers are, our land means very much to us. So do our wives and children. We want them to be able to begin a new life in a new home as soon as possible. We now know that we must move from our best land. Each day's delay



increases our sorrow and insecurity on behalf of all our members. I urge you to act as soon as possible upon this bill in order that our unsettled state will be replaced by an opportunity for us to begin anew, to forge our economic destiny with the aid of the Government. Prompt action is also necessary in order that United States Government will keep faith with the Indians of the Fort Berthold Reservation.

For almost 100 years our forefathers and representatives of the Federal Government entered into a solemn treaty whereby our reservation lands were reserved for our use forever. We kept our promise and have worked to build up a strong and growing cattle industry and steadily expanding agricultural program. Just as we were in sight of economic independence you began to build a reservoir and to take away the heart of our reservation and divide it into five isolated segments. The homes which we built, the bottom lands on which 85 percent of our people lived and on which cattle industry depended, our churches, our schools, our government, and our social life will be disrupted.

We did not want Garrison Dam built. We pleaded with you to find another place to build a dam. It was not that we wish to hamper progress. In fact, we voluntarily offered some of our other lands which were not so vital to our life as a place to be used to construct a dam. Our prayers and pleas were fruitless. The Government told us "Either you agree to some terms, or we'll take the land without your consent."

We were, therefore, forced to sign a contract with the Army. This contract was ratified by our people and our council over a year ago. Yet it is still unratified by the Congress with the result that some of its terms like a provision enabling us to use certain timber up to 1950 cannot be utilized by us. Every day that passes worsens our plight.

I have shown the necessity for prompt action now. Let me summarize the terms of this proposal—our brief explains in detail. The United States will make a settlement with my people for less than \$15,000,000. It will obtain the right-of-way of Garrison Dam and Reservoir which constitutes the keystone of the 5 great dams on the main stem on the Missouri River and 100 large and small dams on the numerous tributaries of the river. The cornerstone of the Missouri River development program will thus be carried out by the Government obtaining Garrison Reservoir right-of-way at about two-thirds of its basic value and its annual use to the Three Affiliated Tribes.

Let me also discuss briefly two portions of this proposed agreement which will illustrate its wisdom in effectuating the Government's special responsibility for these tribes. Three million dollars would be authorized for an appropriation to be used for land readjustment. Under the Indian Inheritance Act of 1910 estates of individual allottees have passed to heirs of even a third and fourth generation developing a complex picture of divided interest in various fractional interest scattered over the reservation. The resulting land situation is so confused that many members of the tribe are either landless or without sufficient or usable land to make a decent living. The land readjustment fund will be used to turn fractional interest into cash which will in turn be used to buy other lands for the individual. The consolidated lands will enable him to make a decent living for himself and for his family.

Another important provision which, I will briefly touch on, would harness a block of the power generated by the dam for use of the



members of the tribe and for sale to others. This will bring electricity at a reasonable cost which will enable us to improve our standard of living and gain some of the advantages of modern technology.

We know that the heart of America bleeds for us. Hundreds of our fellow citizens throughout our great country have shown their sympathetic understanding of our loss. We know now that the United States Government will carry out the wishes of its people and use this great opportunity to help us help ourselves. Our task is very difficult. We must rebuild and reorganize a new life. Even if the bills and appropriations before you are passed quickly, we face 10, 15, or 20 years of hardship, unrest, reorganization and reconstruction. With your help, we must forget the heritage of our homeland guaranteed to us by a solemn and sacred treaty. We, the first Americans, the original owners of this land, feel confident that you will delay no longer. While you cannot restore the 155,000 acres of our best land nor the many losses that cannot be transmuted in money, we expect that you will do your part and be just to our people.

There is one point that I would like to make clear at this point, that this agreement made by the Indians was taken as the only recourse left to them. It was more or less forced on them. We did not willingly agree to it. That I wanted to emphasize at this point.

That is about the extent of the statement I had wished to make.

If there are any questions regarding my statement, I will be glad to answer them.

Mr. MORRIS. That was a very clear statement and a very fair statement. I want to compliment you on that statement, Mr. Whitman.

Mr. WHITMAN. Thank you.

Mr. MORRIS. Are there any questions the members of the committee desire to ask?

Mr. LEMKE. I just want to emphasize the last statement you made. You say this agreement was forced upon you. That is, you see the dam in construction below, and you know that water will be put in that dam, and that your village of Fort Bethold will be about 85 feet below water if the water is put in; is that correct?

Mr. WHITMAN. Yes, sir.

Mr. LEMKE. That is all.

Mr. MORRIS. Yes; it was truly forced on you. There is no question about that. I realize that.

Mr. WHITE. The construction work is going on?

Mr. WHITMAN. It will be under construction as soon as the weather permits.

Mr. WHITE. They have not broken ground on it yet?

Mr. WHITMAN. It has been under construction. When we left there was snow on the ground.

Mr. LEMKE. Yes; they have spent \$30,000,000 on it to date.

Mr. D'EWART. Mr. Chairman, will we have representatives of the Indian Bureau and the Army before us?

Mr. MORRIS. I think we will; yes, sir.

Mr. WHITMAN. I have brought some delegates along, and I would like to call them.

First I wish to present Mr. J. B. Smith, who has followed this from away back.

Mr. MORRIS. All right; come around, Mr. Smith.

**STATEMENT OF JEFFERSON B. SMITH, MEMBER OF THE GROS VENTRE TRIBE, AND OFFICIAL DELEGATE OF THE TRIBAL BUSINESS COUNCIL OF THE THREE AFFILIATED TRIBES**

Mr. SMITH. Mr. Chairman, my name is Jefferson B. Smith, a member of the Gros Ventre Tribe, an official delegate of the Tribal Business Council of the Three Affiliated Tribes, comprising the Arickaree, the Gros Ventres and the Mandan and the individual members thereof.

The United States of America, before its advent as a Nation, was a haven for the oppressed of other lands. Political, religious, and economic oppression in Europe caused the Pilgrim Fathers to seek homes, freedom and greater opportunity in the New World. These Pilgrims, upon their arrival in 1620, were welcomed by the native Americans. They were given land and all that was within. In a short period of time, greed for gain became evident. The white man, motivated by a great desire to acquire additional territory, compelled the Indian to move thither and yon. Thus began the racial discrimination, plundering, stripping, despoiling him of his property; a delimitation of Indian tribal boundaries.

The Three Affiliated Tribes of North Dakota have always maintained utmost good faith and friendship with the United States. Many years ago, upon meeting his first white man, and, who aroused his admiration to a high degree, one of our chiefs decreed to his people that the white man was their friend and that there should ever exist a mutual and friendly relationship. When Lewis and Clark were designated to explore the land which comprised the Louisiana Purchase of 1804, they found a very friendly people in the three tribes. They were afforded food and protection. The famed Indian woman known as Bird Woman guided the expedition westward.

Many of our Indians joined the United States troops as scouts in the pioneer days and have rendered valuable services. The Commissioner of Indian Affairs in his report dated November 1, 1873, said of the Three Affiliated Tribes, pages 158 and 159:

The Indians of these agencies deserve more from the Government than any other tribes in Dakota on account of their fidelity to the Government and the faithful services rendered by them as scouts in compelling other Indians to keep the peace.

Another report dated August 31, 1874, pages 159 to 160, contains the following:

The military have found them the most brave and reliable of all Indian scouts. But notwithstanding their established friendliness, I found them in an intensely dissatisfied state of mind. They complained that while they had steadily kept the "straight path," the Government had not done so; the whites had lied to them, cheated them, and actually allowed them to starve, instead of feeding them and caring for them as promised in all their treaty councils. Unfortunately, and to our shame, their declarations are too true.

The proposal of the United States to negotiate treaties with the Arickaree, Gros Ventre, and Mandan Indians was gladly accepted as a kindly gesture.

The three tribes inhabited the Dakotas and eastern Montana. They were once populous tribes. It is a common knowledge among our older people that on or about the year 1837 a boat drifted down the river bearing some white men, one of which was allowed to remain



at an Indian village. He had smallpox. Ravages of the disease nearly exterminated the tribes.

The United States entered into a solemn treaty with Arickaree, Gros Ventre, and Manda Indians on or about September 17, 1851. The treaty lands as claimed by the three tribes were as follows: Commencing at the mouth of the Heart River, up the Missouri, Yellowstone, and Powder Rivers, to the headwaters of the Little Missouri River, to the foothills of the Black Hills, to the Heart River and the place of beginning, containing about 13,000,000 acres.

Across the span of our national history, it is inconceivable that treaties with Indians which have been sacredly solemnized and duly ratified have been violated by its author—the United States Government. The construction of the Garrison Dam which will inundate a large portion of our treaty land is a more recent violation of treaty. The Three Affiliated Tribes now deem that their faith and friendship with the Federal Government has worked largely to their undoing. It is quite evident that the Indians have done most of the giving and the United States Government most of the taking.

The native Americans, who in the remote past reigned supreme in all they possessed by immemorial right of occupancy, are an underprivileged minority group against whom many illegal forms of oppression and discrimination are practiced. Belonging to a minority group whose skin is pigmented seems to be a disqualification which serves as a bar in preventing participation in the benefits of American justice.

At one time in the past, the United States Government recognized the importance of fair treatment for the Indians and on July 13, 1787, it adopted the Northwest Ordinance, section 3 of which reads as follows:

The uttermost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress, but laws founded in justice and humanity shall, from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

In 1944 Congress authorized five dams to be constructed on the main stem of the Missouri River, one of which was the Garrison Dam.

This reservoir, when completed, will destroy the homes, the lands, and the economy of the Fort Berthold Indians. The Northwest Ordinance of 1787 was violated when the matter was not referred to the Indians for consideration. Preliminary work on the dam was well begun when a Colonel Freeman furnished us information that the Garrison Dam would flood some of the best land the Indian possessed, but that they would be given other land of equal value. The land offered included for the most part, the area known as the Little Missouri River Badlands. Much of the land offered is devoid of any vegetation. We refused the disgraceful offer. We have rejected other offers because we feel that our rights were not protected.

In July of 1947, Councilmen Packineau, Mahto, and I were present at the hearings before the Subcommittee on War Department Civil Appropriation Act, Public Law 296, to prevent, if possible, the flooding of our lands. The pleas we made to save our land, homes, and our economy was given a deaf ear. Our offer of an alternate plan and

location of a dam was not considered. An offer of \$5,105,625 was made.

We requested a compensation of a larger amount. There was disagreement and no further offer was made. We returned home to learn to our dismay that it was reported on the floor of the Senate Chamber that the Indians agreed to the offer. We did not agree to the offer and, hence, we charge that the offer was false and illegal. We protest the wrong being done to us by the illegal action and methods. The Indian has become inferior to the white man, he is forced to serve him and is subject to his master's orders. Because the Indian is weak and docile, he is wronged and imposed upon.

It has been a requirement of law that a contract be entered into by the United States Government and the Three Affiliated Tribes in the apportionment of the funds which was supposed to have been agreed upon by the Indians. The contract has been completed in compliance with the law. It is awaiting the ratification by Congress.

A grave situation confronts the Three Affiliated Tribes. The United States Government has entered into solemn treaties with the Indians. The treaties were made, composed, and devised by a commission authorized by the United States Government (Indians being illiterate and belong to a lesser social and economic caste), for the sole benefit and strictly in accordance with the desire of the Government. It has defaulted and broken the treaties. Will the present contract or treaty meet the same fate? The abuse and misuse of its ward Indians has created an atmosphere of suspicion and mistrust that no future time can repair.

The tribal business council of the Three Affiliated Tribes have signed the contract with tears in their eyes and heavy hearts. Being compelled to surrender about 155,000 acres of our best lands to the United States Government, thereby disrupting our homes and economy, the future looks dark and dismal to the Fort Berthold Indians. We are being punished for being Indians by a Christian nation.

The United States Government is the strongest, the wealthiest, and freest Nation in the world. It has furnished billions of dollars to Europe, Asia, and Latin America, much of which will never be reimbursed. The Government owes its wards a moral obligation. It is the guardian and bound by every moral and equitable consideration to discharge its trust with good faith.

To alleviate suffering, to restore in a small measure their dignity and to rehabilitate the members of the Three Affiliated Tribes in order to attain a wholesome American life, we urgently request that you enact into law in its entirety, House Joint Resolution 33.

I thank you, Mr. Chairman.

Mr. MORRIS. All right, we are glad to have your statement. We appreciate your being here and giving us the benefit of your views. Are there any questions by any members of the committee? All right; whom do you have next?

Mr. WHITMAN. I will next call Carl Sylvester, who is an official delegate of the Three Affiliated Tribes.



**STATEMENT OF CARL SYLVESTER, OFFICIAL DELEGATE OF THE  
THREE AFFILIATED TRIBES, FORT BERTHOLD RESERVATION,  
N. DAK.**

Mr. SYLVESTER. Mr. Chairman.

Mr. MORRIS. Mr. Sylvester:

Mr. SYLVESTER. Mr. Chairman, and gentlemen of the committee and fellow citizens, I am making a statement here as official delegate of the Three Affiliated Tribes of Fort Berthold Reservation, N. Dak.

I was asked to touch on this treaty, and I shall be very brief.

In the treaty of Fort Laramie, Wyo., September 17, 1851, the Fort Berthold Indians were assured by the Federal agents that their lands would be secured and would be free from danger of dispossession in the future for any reason whatsoever.

This understanding was firmly established from that time to this, even in the light of repeated and glaring violations on the part of the Government and its citizens.

The Indians had great faith in the treaty, and always hoped that someday everything would be righted.

When the Indian Reorganization Act was passed in 1934 giving the three tribes authority to establish self-rule, it was believed to be the fruition of the guaranty of landownership rights and that the 1851 treaty was, after all, not a mere paper agreement, but a promise well kept.

Now, in this proposed river-control program, this treaty has been treated with very little consideration, and again made to become an obscure issue.

The majority of the voters of the Three Tribes signed the Army's contract because of the depressing atmosphere of foreseeable adverse decision by the Federal courts in the event of judicial litigation.

The Three Affiliated Tribes have kept their part of the treaty and deserve the utmost consideration. There is no excuse on the part of the Government to take steps at intimidation and instilling of fear in them about property confiscation. We were not at any time at war with the Government. Rather we cooperated in their efforts to maintain amicable relations and to keep peace with the rest of the tribes and help expand the march of civilization. We should be rewarded for these virtues by grant of what we ask which are modest and conciliatory in the extreme. We are not asking exact retribution, but a show of appreciation for what we believe to be our part well done.

A lengthy discussion of the 1851 treaty of Fort Laramie, Wyo., as pertains to the Three Affiliated Tribes would well deserve a space, but I am loath to take up too much time of our honorable gentlemen who have the burden of our national problems on their shoulders. It ought to suffice to say that our stand as outlined in the brief of Attorney R. H. Case is well merited and deserves all the consideration that you honorable gentlemen can bestow.

Thank you.

Mr. MORRIS. Thank you a lot for your statement, Mr. Sylvester. Are there any questions?

All right, who is your next witness, Mr. Whitman?

Mr. WHITMAN. We have our missionary present, the Rev. Harold W. Case, who will be the next witness.

**STATEMENT OF REV. HAROLD W. CASE, PASTOR AT LARGE FOR  
THE CONGREGATIONAL CHRISTIAN INDIAN CHURCHES, ELBO-  
WOODS, N. DAK.**

Mr. WHITE. For the purpose of the record, what is your name and title?

Reverend CASE. I am Rev. Harold W. Case, congregational missionary of the Fort Berthold Indian Reservation, N. Dak.

It has been my privilege to have lived and labored with the members of the Three Affiliated Tribes for the past 26 years. The church's program goes back some 73 years, so one can see we have had much opportunity to observe the progress of these people and know something of the many obstacles they have had to face through the years. I want to speak of their accomplishments of the past.

A people, once numbering their members into thousands, became decimated by smallpox until their number dwindled to a little more than a thousand.

Exploited by the unscrupulous white people, suffering the loss of many millions of acres of their land through Executive order of our Government, slapped down again and again, and thwarted at every turn. Amidst such disheartening set-backs, these people have shown a marvelous spirit, a desire to stand on their own feet, an effort to rise each time until now they are not only spoken of as among the most progressive of the northwest Indians, but having that undefeatable spirit they have stood out as people of promise.

Letters continue to come to my desk asking the reason why, for such progress. A former State official of Minnesota also asked the question after he had visited the reservation for the first time. Instead of finding Indians in war regalia, he found an intelligent, conversing people who gave evidence that they knew their objective as a people were concerned in bringing about a more meaningful way of life for all. Underneath it all was the inspiration, vision, and guidance of the churches through their own leaders which has won the admiration of all who have come to know them.

This is but a brief glimpse of the progress they have made in the past. They as a people suffered terrific losses though the years and yet amidst it all they have given so generously of themselves in cooperating with the United States Government in every way possible and more especially in the high percentage of its youth who volunteered for national defense. They have tried and have succeeded in a large way of accepting the white man's way of life.

Then came the knock-out blow. Before many of their sons had been mustered out of the service, the blow fell. The United States Government was demanding their homelands which had been theirs for generations, to make way for the coming of the Garrison Dam. The very heart and core of all that was very near and dear to them was demanded of them. The war drums had been buried long ago, for as long as the white man has known these people they have been known to be a peaceful people, but their eyes became moist, not being able to understand how this could happen to them by a Christian Nation. Why, they asked, must their social, religious, and economic life be so terribly disrupted.



Of course, they opposed the construction of the Garrison Dam, and the church could do no less than strengthen their hand and become vitally concerned about the tragedy about to descend upon them. So near had they come as a people to being able to stand on their own feet economically, and spiritually. This blow was like taking away their very foundation of life and threatened their very existence. At this point, when their way of life became threatened, the Garrison Dam versus Three Affiliated Tribes, became a matter of national importance. The general council of Congregational-Christian Churches meeting every biennium, took official action, first in 1944, again in 1946, and again in June of 1948. I wish to quote the most recent resolution, as of June 1948, meeting at Oberlin, Ohio:

Whereas the general council of Congregational-Christian Churches at its meeting at Grinnell, Iowa, in June 1946 took action protesting the building of the Garrison Dam which would involve the Three Affiliated Tribes on the Fort Berthold Indian Reservation of North Dakota and deprive them of 155,000 acres of land, their homes, and other institutions and disrupt their social, economic, and religious life, and

Whereas the appropriation for preliminary work has been made by the Federal Government and work begun: Therefore be it

*Resolved by the general council,* That the Federal Government be requested to compensate more adequately the members of the Three Affiliated Tribes, making possible a just and reasonable rehabilitation of their land, homes, other institutions, and their social, economic, and religious life, assuring their future welfare. (See report on resolutions, June 17-24, 1948, general council of Congregational-Christian Churches.)

Stripped of their working tools, the things they held near and dear, their bottom lands, home, schools, and their churches, built through their own sacrifices and labor, facing the necessity of removing their dead, some 2,000 in all, they face the most terrific upheaval ever confronting them.

So great is the actual disruption, gentlemen, that only many, many millions of dollars far greater than they are asking, and many years of effort can repair the damage to the lives of these people brought about by the building of the Garrison Dam. Our hope and prayer is that you who are Members of this Eighty-first Congress, now in session, will approve their request in House Joint Resolution 33 to assure these people of a reasonable rehabilitation.

It has been said that "the love of money is the root of half of the evil in this world and the lack of it is the cause of the other half."

We all know that it would be highly discriminatory to simply pay them for the value of their lands but we must grant them the funds with which they may build a finer way of life as free men of our great Nation, that they may retain that same undefeatable spirit and be kept from frustration. I am confident, gentlemen, that not only will the Three Affiliated Tribes give an excellent accounting of themselves in the years ahead, but who knows in our meeting their needs in this hour of crises but what may come from this valley some of America's ablest minds. This is why I urge your approval of House Joint Resolution 33 and have confidence that you will.

Thank you.

Mr. MORRIS. We appreciate that statement very much, and we are mighty happy to have you with us. We realize the great need of spiritual force, especially in this old world, and we thank you very much for your contribution.

Reverend CASE. Thank you.

Mr. MORRIS. Are there any questions?

Mr. WHITE. May I ask a question or two, Mr. Chairman?

Mr. MORRIS. Yes, sir, Mr. White.

Mr. WHITE. You are working on religious work among the Indians as a missionary?

Reverend CASE. Yes, sir.

Mr. WHITE. Has the population of the tribe increased or decreased?

Reverend CASE. It has increased. When we started our work there were 1,200 souls there; today there are 2,215.

Mr. WHITE. It shows a normal increase in population.

What about their education; how many of them are illiterate, what percentage of them can read?

Reverend CASE. All of them can read. They can read their own language. All of the old people can read their own language which we translate for them.

Mr. WHITE. How many missionaries of your denomination are there there?

Reverend CASE. I am the only one.

Mr. WHITE. You are the only one out there?

Reverend CASE. Yes, sir.

Mr. WHITE. And you have regular services?

Reverend CASE. At seven centers on the reservation.

Mr. WHITE. Thank you, Reverend.

Mr. MORRIS. Thank you, Reverend. Whom do you have next, Mr. Whitman?

Mr. WHITMAN. Mrs. Byron Wilde.

#### STATEMENT OF MRS. BYRON WILDE, FORT BERTHOLD INDIAN RESERVATION

Mr. MORRIS. All right, Mrs. Wilde; we are mighty happy to have you with us.

Mr. LEMKE. Mr. Chairman, before Mrs. Wilde makes her statement, I wish to just make a few comments.

I met Mr. Wilde the first time as a rival on the football field, and he was one of the star players for the Agricultural College. I was playing on the university team, and we were warned to watch Wilde, that he was fast and a powerful runner and if he ever got away he would make a touchdown. Since then we have been very close personal friends.

Mr. MORRIS. That is very interesting, Congressman Lemke, and we appreciate that personal touch.

We have very glad to have you with us, Mrs. Wilde, and we will be happy to receive your statement.

Mrs. WILDE. I represent the Arickarees. My name is Anna D. Wilde. I am from Fort Berthold, and I am one of those living in the strip that is to be flooded.

We have gathered here in deliberation upon a subject that is quite vital to the interest and advancement of the three tribes of Indians, Arickarees, Gros Ventrés, and Mandans, owning and possessing homes within the Fort Berthold Reservation.

I am sure we are all familiar with the subject of the Garrison Dam project which is now under operation of building across the Mis-



souri River, near the town of Garrison, N. Dak., and which will necessitate the moving of many Indian homes on the said reservation.

After much consultation and deliberation between the Indians and the Government, a plan for accommodating the exchange of these present homes for homes in other localities, has been accepted and is now before the Senate in the form of a bill pending action of Congress.

But suddenly out of the horizon, opposition has risen against the contract already signed by the Indians concerned. A majority of the people wish to protect anything opposing the passage of that bill. We feel the Wheeler-Howard Act advocates a Government which is most advisable for these Indians at the present time, and under which they have made progress.

We feel that any changes would cause the kettle to boil over. We are endeavoring to quiet agitations of fault and dealings in all forms. Although this change of living has produced serious discussions upon the subject, we feel that all has been accomplished that can be done.

The mothers of the Three Affiliated Tribes of the Fort Berthold Reservation have suffered severe heartaches brought about in connection with the construction of the Garrison Dam project in our locality.

Our ancestors and forefathers gave us our land and homes, which our United States Government in peace treaties promised would be ours forever.

Our forefathers were long-visioned and provided extensive areas for hunting grounds. In this abounded much buffalo, elk, deer, et cetera, for food.

The men want to hunt and war. The old-time mothers remained at home to keep house and to do farm work. The game, which the men brought home, the women tanned and converted into moccasins, shirts, leggings, and jackets. The meat was conserved by slicing thin, dried and stored away. This was for eating during gardening and harvesting the vegetable products for another year.

The mother tilled her garden with a shoulder blade of a buffalo tied to a stick. From her garden, the harvest was a large crop of corn, beans, and squash. It was from such a supply that she furnished seeds to the pale-faced stranger, who had come into our midst.

Along the Missouri River bottom land grow different kinds of berries which are picked and preserved.

Last summer the berry trees and shrubs brought abundantly. In our family, we put up 100 quart-size jars of june-berries and dried 25 pounds besides 90 quart jars of plums, 50 quart jars of plum butter, 50 quart jars of plum jelly, 90 quart jars of choke-cherry jam, 90 quart jars of choke-berry syrup, and 10 quart jars of buffalo-berry jelly. Other mothers may have put up more and others less, but they all preserved some.

The events of today are changing rapidly. We mothers are confronted with heart-rending problems for our children and youth of tomorrow. It is cutting the heart right out of life of our people in the thought of problems of the near future. What humane justification can be offered to suffice the sad plight into which our children have been thrown? What consideration for their best future welfare be granted? We mothers continue in prayer for humane justification.

So that again we may take heart and feel we may rightfully hold up our head to sing, My Country 'Tis of Thee.

In closing we wish to express our gratefulness to those who have been our kind advisers and unselfish friends—especially Senator Langer, Senator Young, the Honorable Congressmen Lemke, Burdick, Attorney Case, Senator O'Mahoney, Mr. Allan Harper and our Superintendent Riefel, who have been and still are laboring for our best interest.

Gratefully presented in the sincere interest of the Three Affiliated Tribes of the Fort Berthold Reservation.

Mr. MORRIS. That is a very splendid statement. We appreciate that very much.

Are there any questions, gentlemen?

I might ask you this one question: What does a buffalo-berry look like. I have never seen a buffalo-berry.

Mrs. WILDE. They are little red berries, very much like currants.

Mr. MORRIS. What is the flavor? Do they taste like some other berry we are familiar with?

Mrs. WILDE. I guess the nearest is the currant.

Mr. WHITE. Are they tart?

Mrs. WILDE. Yes.

Mr. WHITE. They make good jelly?

Mrs. WILDE. They are very tart and make good jelly.

Mr. LEMKE. I may state, if you have never tasted the jelly you ought to.

Mr. MORRIS. I have never tasted it. Maybe we will have the honor and the privilege of coming out sometime and eating some of your jelly.

Mrs. WILDE. We would be happy to have you.

Mr. WHITE. I am afraid we are neglecting something by letting the berries go to waste.

Mr. WHITMAN. Mr. Chairman, at this time I would like to present something on the cattle phase of our livelihood of the reservation. I shall invite Mr. B. J. Youngbird to be the next witness.

Mr. MORRIS. We shall be happy to hear from you, Mr. Youngbird.

#### STATEMENT OF B. J. YOUNGBIRD, MEMBER, THREE AFFILIATED TRIBES, FORT BERTHOLD INDIAN RESERVATION, AND MEMBER OF THE BUSINESS COUNCIL

Mr. YOUNGBIRD. Mr. Chairman and gentlemen of the committee, I am B. J. Youngbird, enrolled member of the Three Affiliated Tribes of the Fort Berthold Indian Reservation, and a member of the business council, duly elected by a majority vote of the Nishu district.

I desire to speak as a stockman of the Fort Berthold Reservation. Stock raising has been the principal industry of the Three Tribes. Our livelihood depends on the outcome of stock business.

We raise a high type Hereford cattle. We aim to better our herds by using purebred sires. We run our cattle on the upland during the summer months. We depend entirely on our bottom lands for our winter pasture. The bottom lands and the timbered areas afford our cattle an ideal winter shelter.



When our reservation is divided into five areas by the flooding of our land, it will cause much hardship. The heart is taken out of our great cattle country. Our cattle business will be ruined and our livelihood will be hindered to a great extent.

Our whole cattle-industry program is based on our natural resources. Now that we will be compelled to do without, it is imperative that a complete change of plans will be made in this cattle program.

The fact that the contract was not ratified last spring does not help our program.

We Indians realize that we will have to move due to the flooding of our lands. This delay has affected us in such a way that progress of our individual program has been considerably retarded. Improvements on our ranches within the taking area seem useless and unnecessary, as it will be a temporary measure.

Our movement to upper lands is encouraged, but is not implemented due to lack of funds necessary for such a task.

When we are compelled to move to other parts, we must start life anew. We need much help; therefore, we request that you ratify our contract as is.

Mr. MORRIS. We appreciate very much your statement, and we certainly will give careful consideration to your request.

Mr. WHITE. Mr. Chairman?

Mr. LEMKE. I have one question.

Mr. WHITE. I yield to the gentleman from North Dakota.

Mr. LEMKE. Your homes will be destroyed and flooded when you move onto the flats, where the winds hit you and the blizzards hit you full blast. You will have to build far more substantial and warmer homes, and the material which you build your homes which will cost you a great deal more than you would have to pay for homes where you now live; is that not true?

Mr. YOUNGBIRD. Yes, sir.

Mr. LEMKE. The same is true when you have to build barns and shelters for your cattle.

Mr. YOUNGBIRD. That is true.

Mr. LEMKE. There will not be a single tree, so far as I know, left anywhere on these higher lands.

Mr. YOUNGBIRD. No.

Mr. LEMKE. That is all.

Mr. MORRIS. Mr. White?

Mr. WHITE. You are a member of one of the tribes?

Mr. YOUNGBIRD. Yes, sir; I am an enrolled member of the tribe.

Mr. WHITE. Do you have any allotment of land of your own?

Mr. YOUNGBIRD. I do.

Mr. WHITE. How much?

Mr. YOUNGBIRD. I have 160 acres.

Mr. WHITE. You have a 160-acre allotment. Do you run your cattle on the tribal land?

Mr. YOUNGBIRD. Yes.

Mr. WHITE. Do you have to pay anything for the privilege?

Mr. YOUNGBIRD. No, sir.

Mr. WHITE. You just run your cattle on it?

Mr. YOUNGBIRD. Yes.

Mr. WHITE. Would there be any difference, whether you had 100 or 1,000 head? Is there any limit on what you can run out there?

Mr. YOUNGBIRD. No, sir.

Mr. WHITE. There is no limit on this bottom land we are speaking of. Is any of that in tame grass such as alfalfa and things like that?

Mr. YOUNGBIRD. There is some in crested wheatgrass and clover, and there is some alfalfa. There is not so much alfalfa, but there is some alfalfa.

Mr. WHITE. As a rule, how much feeding of hay do you have to do in the winter? Do you feed at all?

Mr. YOUNGBIRD. Very little. The only feeding we have to do would be pretty much in the month of February or March.

Mr. WHITE. You do put up hay and have reserves in the stacks around there in case of a hard winter?

Mr. YOUNGBIRD. Yes, sir.

Mr. WHITE. But some winters you do not have to use that?

Mr. YOUNGBIRD. We do not use even a forkful of hay.

Mr. WHITE. The hay is there, though. If you do have a winter like last winter you can take care of the cattle; but as a rule you do not have to feed hay?

Mr. YOUNGBIRD. That is right. All our bottom lands which we are speaking of, which will be flooded, are ideal winter pasture. The shelter and everything is there.

Mr. WHITE. The grass that grows in that particular country is exceptionally nutritious and fine for cattle, is it not? They keep in good condition just running out on the range?

Mr. YOUNGBIRD. That is true, sir. They keep in perfect condition. The heavier cattle, too, which will have calves in the spring of the year, there are very few of those which we must take up and feed.

Mr. WHITE. A young heifer which is going to have a calf in the spring can get through the winter and have the calf without trouble, just running out on the range?

Mr. YOUNGBIRD. That is true.

Mr. WHITE. Unless there is an exceptionally hard winter?

Mr. YOUNGBIRD. Yes.

Mr. WHITE. How often do you strike a winter when you have to feed?

Mr. YOUNGBIRD. 1949 is the only one I know of.

Mr. WHITE. You have not had to feed for years until this last winter?

Mr. YOUNGBIRD. Yes, sir.

Mr. WHITE. But you do have a hay reserve?

Mr. YOUNGBIRD. Yes, sir.

Mr. WHITE. The land which will be flooded is the land you depend on for winter pasture, and the land you depend on to put up the hay for the reserve?

Mr. YOUNGBIRD. That is true.

Mr. WHITE. I think that is all.

Mr. MORRIS. Thank you very much.

Mr. WHITMAN. Mr. Chairman, there is one young fellow, an ex-GI, and one of our youngest members of the council, whom I think you would be interested in hearing. This is Mr. Little Soldier.

Mr. MORRIS. Very well, sir. Will you please come forward.



**STATEMENT OF NATHAN LITTLE SOLDIER, COUNCILMAN, FORT BERTHOLD RESERVATION**

Mr. LITTLE SOLDIER. Mr. Chairman and members of the committee, I am Nathan Little Soldier, an Arickera and Mandan Indian.

Mr. WHITE. Your name is "Little Soldier"?

Mr. LITTLE SOLDIER. That is right. Rather unfortunately I went into the Army, and was ribbed about it.

Mr. WHITE. I think it is a very appropriate name.

(Discussion off the record.)

Mr. LITTLE SOLDIER. I am an enrolled member of the Fort Berthold Reservation. I have been duly elected councilman by majority vote.

I am a member of the Veterans of Foreign Wars. I am much puzzled by familiar posters. Fight for your country by joining the Army, Navy, and Marine Corps. I have joined the forces as many have done. Many of my fellow soldiers have sacrificed their all; some returned disabled. I am grateful to my Creator that I have returned, but I am saddened to return and find the land I fought for only to be taken from me for the Garrison Dam. We realize the fact that the dam is essential, and we are willing to surrender our lands to be flooded. We have only one consolation. That is, for you honorable members to give us your kind consideration to ratify our contract.

I am a member of the Fort Berthold Livestock Association. I desire to speak to some extent on livestock business. The Three Affiliated Tribes have always been stockmen. Our reservation is an ideal place for livestock. It has been our practice to increase and better our herds. We specialize in Hereford cattle.

All of these plans had been made several years ago with no consideration given to any possibilities that our best land might some day be taken away from us. Now that we are certain that this best part of our reservation is to be taken away, we will have to completely revise our cattle program to fit the poor and diminished area caused by the Garrison Dam. This is a total disruption of a reservation program designed to completely rehabilitate our Indians.

To give a brief history on the cattle program, the tribe borrowed some \$50,000 from the United States for loans to Indians. Since I am now a member of the loan committee and have acquainted myself with the intentions of such a system and also the condition of my people, I find this amount to be very small. Up until last year, the tribe carried \$35,000 as a working fund. As evidenced by the records and my observation, the aim and use of this limited fund was to take care of as many as possible; in other words, a lot of small loans which did more harm than good. Our present working fund is \$110,000, which has been used to effectively set up an individual right. The revolving cattle program has been in operation longer. Our Indian cattle ranchers owned some 3,000 cattle at the beginning and now own some 8,000 head.

In spite of all this great effort toward an economic unit, the progress of the program has slowed to almost a halt, due to the impending flooding of our best land. The Indians, in general, are in the dark. They know they must move, but so long as this bill is not ratified the progress of Indians is practically at a standstill.

That is all I have to say. Are there any questions?

Mr. LEMKE. Mr. Chairman?

Mr. MORRIS. Mr. Lemke.

Mr. LEMKE. This, perhaps, has nothing to do with the bill. What schools did you attend?

Mr. LITTLE SOLDIER. Is this off the record?

Mr. LEMKE. It is on the record.

Mr. LITTLE SOLDIER. I attended Indian schools 360 miles away from home, when I was only 6 years old. My father died when I was 2 years old. There were seven of us in the family, and I had to go away from home when I was 6 years old. I stayed there to complete my grade-school education at Wahpeton. From there I went to Nebraska, and Elbowwoods. I did not complete high school. I only went up to the eleventh grade.

Mr. LEMKE. Most of the Indians at Fort Berthold have an education and can read and write; or practically all of them?

Mr. LITTLE SOLDIER. Certainly. Excuse me, but that is a foolish question to ask. This is progress. Everybody has progressed, like anyone else. I will bet my last dollar, which is not very much, that I can go to any Indian over there and have him read or write a letter.

Mr. LEMKE. The reason I ask you that is that there are so many who do not have that same advantage.

Those educational institutions at Fort Berthold and all that you had there will be flooded? They will be under water?

Mr. LITTLE SOLDIER. That is right.

Mr. LEMKE. You will have to do the same thing all over again?

Mr. LITTLE SOLDIER. That is right.

Mr. LEMKE. With the aid and help of the Department, of course?

Mr. LITTLE SOLDIER. Yes. It will set us back.

Mr. LEMKE. I will say that I have met one of your young ladies out there, while we were driving in that country.

Mr. LITTLE SOLDIER. Which one was that?

Mr. LEMKE. I forget her name. She was a young teacher, and in talking to her, with the person that was driving her, I came to the conclusion that she was about as able a teacher as many a white girl I have known.

Mr. LITTLE SOLDIER. Thank you.

Mr. LEMKE. That is all.

Mr. MORRIS. Mr. White?

Mr. WHITE. The main dependence of the Indian on this reservation is the production of livestock?

Mr. LITTLE SOLDIER. Yes, sir.

Mr. WHITE. If they were prevented from producing livestock on the reservation they would have a difficult time supporting themselves on this reservation land?

Mr. LITTLE SOLDIER. Yes, sir.

Mr. WHITE. That is your main dependence, livestock?

Mr. LITTLE SOLDIER. Yes, sir.

May I add that by depriving us of all this you can class us in the same category as the rest of the starving Indians, and the rest of the illiterates, by putting us back that far.

Mr. WHITE. That land is not suitable for raising grain or vegetables or things like that?

Mr. LITTLE SOLDIER. I happen to be a farmer.



Mr. WHITE. Go right ahead and explain. I just want to bring out the facts and conditions.

In the first place, you range your cattle on the highlands, and in the wintertime they go down to the lowlands along the river?

Mr. LITTLE SOLDIER. That is right, sir.

Mr. WHITE. You have a little reserve of hay so that in the event of a very hard winter you can tide them over?

Mr. LITTLE SOLDIER. Yes.

Mr. WHITE. But as a rule the grass is so full of nutrition and so rich that you do not have to put up the hay. They pasture out in the winter. The snow does not get deep enough to prevent grazing through the winter?

Mr. LITTLE SOLDIER. That is right sir. Speaking of the little hay I put up last year, it summed up to 400 tons.

Mr. WHITE. You had a hard winter, but if you had had a mild winter would you have left this 400 tons of hay in the stack, or would you have sold it?

Mr. LITTLE SOLDIER. I would have done just like the white man. I would have put it in the bank and saved it for hard times.

Mr. WHITE. You would have sold it, received the money, and put it in the bank. You have such a good cattle group that you not only have the income from the cattle, but if you are of a mind to you can sell your hay if the winter is not severe and have two incomes, one from hay and one from cattle?

Mr. LITTLE SOLDIER. That is correct.

Mr. WHITE. By putting in this dam it will flood that lowland and you will lose that income?

Mr. LITTLE SOLDIER. That is correct. We will be just another starving bunch of Indians in North Dakota.

Mr. WHITE. And the highlands are not suitable for raising grain, corn, and things like that?

Mr. LITTLE SOLDIER. I raise grain. My brother and I work together. The reason we work together is that I spent a little time in the Army. I was set back 4½ years by volunteering for the service.

I should have known some of you Congressmen and Senators, to have gotten myself out of the Army, to stay back on the farm and make a little money.

Mr. WHITE. I think you have given the Congressmen more power than they really have.

Mr. LEMKE. I am inclined to agree. A Congressman could not prevent the boys from going to the Army.

Mr. WHITE. But if the Indian has to go to the highlands and has to depend on the grain farming, then he could not make it if you had a drought. Droughts are common back there, are they not?

Mr. LITTLE SOLDIER. That is right.

Mr. WHITE. He would live in a very precarious condition. In fact, the country would not support him if he could not raise cattle; is that the idea?

Mr. LITTLE SOLDIER. That is my idea.

Mr. WHITE. That is all.

Mr. LITTLE SOLDIER. Thank you.

Mr. MORRIS. Thank you very much, sir.

In view of the statement of this witness and others, I believe it might be well for the chairman to make a short statement at this time.

I certainly would not in any way attempt to justify this original project, this dam which will destroy a great deal of your land, but I would like to make a statement about this.

The law provides, and we will do our very best to see that that law is carried out, that where your land is taken away you are entitled to a just and a fair compensation for it. I realize fully that this great Government of ours has violated the treaties with the Indians many times. I take it that every nation in the world has done those things, and it is certainly nothing to be proud of.

I think we are, taking everything into consideration, the greatest Nation in the world, but we are certainly not free from defects, and we certainly have made mistakes and errors in the past. When I say "we" I mean those who were in power at the time have made mistakes for and on behalf of our great Nation. I, for one, look with a great deal of regret, to put it mildly, upon many things that have happened with respect to our great Nation in dealing with our Indian friends.

However, I would like to also call to your attention this situation: That this particular project—whether it is best or not is not the point at this time, since this dam is an accomplished fact—was not designed in any way by anyone, I am certain, just to take your lands away. That was not the design of it. The purpose of it was and is to keep apace with modern progress.

Flood control on the Missouri, irrigation, reclamation, hydroelectric power, and so on are very important. In other words, the purpose of this project, together with the other projects of this great river and its tributaries and so on, is to give the greatest amount of service to the greatest number of our people, including your own people.

All over our great land the white people, the same as the Indian people, are having to give up their lands in very similar situations to this. Lowlands are being flooded over all of our Nation by dams that are being built.

The point I want to make is this: There was no design, I am certain, on the part of anybody just to take your land away from you, but you happened to fall victim, as the saying is, to progress of this Nation in that particular respect.

While you do so, you are not the only ones who fall victim to it. There are thousands and even perhaps it will run up to millions of white people who will fall victims to this same situation.

However, the set-up for our Government is such that it provides when land is taken for public purposes, that there must be a just compensation. That is one of the blessings of democracy. That is one of the fundamental provisions in a democratic constitution and in democratic laws, that no private property can be taken by the Government without just and fair compensation to the owner.

So our burden here is to find out what the just and fair compensation is to you good people, and to do everything within our power to see that you are justly, honestly, and fairly compensated for this loss which you are going to suffer.

I might say to you that I, as one member of this committee only—and I imagine that I speak the sentiments of every member of the committee—if there is any doubt in my mind, I am going to resolve that



doubt in your favor. That is not because I am trying to curry any favor with you, but because I think justice requires it. That has always been my theory.

I sat as a district judge for nearly 10 years out in Oklahoma and I tried many condemnation suits, largely involving the erection of high lines and highways and things like that. I always took the position that the jury and the court should be very careful when land was being taken from anybody, no matter who it was, to be sure that every element of damage that was fair and right should be considered.

As I say, I am not saying that to curry favor with you, but just common justice requires that we do take into consideration every element of damage that people suffer, and that we give you the benefit of any reasonable doubt.

I think that is the attitude of this committee. We might err. We might be mistaken. We might not agree with you, but we will do our very best to see that you are justly compensated.

However, in some ways, we cannot ever compensate you, for this reason: If I have a little home out in the West, that has a sentimental value to me and it is taken away from me no one can compensate me for it. I might have a home which I would not sell for \$1,000,000, and yet nobody would give me more than a few thousand dollars for it, so I will be frank to admit that there is just no way in the world that this Government or any government could compensate you actually for the loss of your land. You probably would rather stay there than to go anywhere else in the world, even though the value of the land were not nearly so great on the commercial market as you might consider it to be.

I just make that general observation for the one purpose alone, and that is to dissipate any feelings in your mind, if you have such feelings, that there is any disposition on the part of anybody to willfully injure you people.

I had nothing to do with the original presentation of this proposition as an individual member, but I just want to dispel from your minds any thought, if you have any thought, that there was any particular or definite conspiracy or attempt on the part of anybody to injure you good people. I am sure there was no such disposition, although the result may be as disastrous to you, perhaps, as if there had been as actual design as that.

I will assure you that this committee, and I feel this Congress, will do its very best to compensate you in every way that we possibly can.

Mr. WHITMAN. Mr. Chairman, as was pointed out by my colleague who just arose, the Indians, in general, on this reservation, are intelligent. We concede and appreciate the justification for a series of these dams. What is bewildering and puzzling to the Indians is that five of these dams affect the Indian reservation.

Mr. MORRIS. I am not sure. I cannot answer that. I do not know why that is true.

Mr. WHITMAN. If one or two affected the Indian reservation it could be classed as unintentional, but when five do that is a different matter.

Mr. MORRIS. How many are there altogether, Mr. Lemke?

Mr. LEMKE. There are five on the Missouri River.

Mr. MORRIS. And all will affect the Indian reservation?

Mr. LEMKE. I imagine so. I know that those in South Dakota do, and I presume that they all do.

I may state that the Indians first wanted this dam built up by Spanish, which would have permitted the great part of their reservation to be free, and that would have stored 10,000,000 acre-feet of water. I may be mistaken.

However, they wanted 17,000,000 later. Then the engineers had a dream of 23,000,000 acre-feet, which is the largest reservoir in the world, I guess, if finally carried out, and in all these propositions sometimes I have felt that we are too eager to have something that is big and sometimes we forget that the damage may be as big or bigger than the benefits.

However, these 11 States have acted together. It is not only one or two States. There are 11 States involved in this great project, and it has finally been approved.

There was a lot of difference of opinion. First, there was the Sloan plan, which did not provide for all of these great dams, and then there was the Pick plan.

The Senate and the Congress refused to take either one separately, and they told them to get together.

They got together, and out of it you have what is known as the Pick-Sloan plan, and there is some dispute still about what some phases of it really mean.

There have been documents signed by both Sloan and General Pick that provide for 17,000,000 acre-feet. That is the one that was adopted, but later on they agreed to a higher dam, but there was a provision put in there when they did adopt that that the engineers of the Bureau and of the Army could get together and agree on a higher elevation dam.

Mr. WHITE. The very fact that they put this dam for irrigation in this spot indicates that the land is subject to drought and is not entirely suitable for agriculture?

Mr. LEMKE. There is not any question about that, but the Sloan plan never intended any irrigation from that dam.

Mr. WHITE. If the Indians did not raise cattle or livestock, they could not subsist.

Mr. LEMKE. That is true.

Mr. WHITE. There is another thing we must take into consideration. There are very few spots in the United States and in the whole world where they can graze cows after the frost hits the grass on the stem, where it does not have to be harvested and put up. It is one of the few spots on the whole globe where the stock can run out the whole year round and get fat or graze where the grass has been hit by frost. I think that is a tremendously important point.

Mr. MORRIS. That is an important point. It certainly is.

Mr. WHITE. When the frost hits the grass in our country the cattle begin to fall off, and they will starve to death in a field with grass knee high. There is just no nutrition in it. It is only in Montana and Dakota that the frost is the type so that the grass can support the cattle.

Mr. WHITMAN. Mr. Chairman, were you ready for the next witness?

Mr. MORRIS. Let us stop here just a moment for consideration.

(Discussion off the record.)

Mr. WHITMAN. Mr. Chairman, I would like to introduce Father Tennelly.



STATEMENT OF FATHER JOHN B. TENNELLY, BUREAU OF CATHOLIC  
INDIAN MISSIONS, WASHINGTON, D. C.

Father TENNELLY. I am John B. Tennyly of the Bureau of Catholic Indian Missions, Washington, D. C., and the director of our Bureau of Catholic Indian Missions here in Washington.

I have no intimate knowledge of the situation. We do have supervision over religious work throughout the country.

I have had occasion to visit the Fort Berthold Reservation a number of times, and I have been impressed by the way the people have made use of the opportunities they have had there. I have been impressed with the houses they have and the way they have kept up their little farms. Not knowing much about the cattle, I was impressed by the cattle herds I saw in different parts of the reservation.

My general impression was that they were a very progressive people, and on the whole self-supporting on a level that was considerably above the level of some other groups along the river.

From what I hear from our priests on the reservation, there is a good deal of uncertainty, as the witnesses here have told you, among the people, as naturally would be the case. They do not know what is going to happen.

I would suggest the desirability, as some others have, of speedy action on this matter.

Our religious work, of course, has been hampered just like every other activity on the reservation.

I am sure that is the experience of the other people that are working on the religious line. We feel that a good deal has been accomplished on account of the economic improvement that has taken place in the last 50 or 60 years among the Indians.

I think it is the general experience of the worker, whether he is a Catholic or non-Catholic, among people, whether Indians or others, that getting stability is one of the main essentials of progress in religious lines. Until you can get the people settled down and in homes of their own, with some kind of dependable resources to fall back on for a livelihood, your religious work is very much hampered.

This instability, I think, has militated against religious work as well as against other phases of activity on the reservation, so I would suggest to the chairman and to the members of the committee that speedy action on this measure would be very desirable from every point of view, it seems to me.

Another thing I would suggest respectfully to the chairman and the other members of the committee is that the Indians be dealt with not only justly but fairly, as the chairman himself has said so often. It is hard to set a value on property. When you put a thing in dollars and cents, it may be a good bargain and it may not be a good bargain. The appraisers that made the original valuation, I think, went on the principle of offering the least possible amount. That has been our experience with our particular mission properties. It is what the thing would bring at a sale. That is probably the same estimate they put on the Indian property, whereas that is not the replacement value at all. These people would be uprooted and would have to start all over again. There would be a time when they could not depend on

their own efforts for livelihood. They will have to have some other resources to carry them over as people settle out in the new country there.

I would suggest that the committee, in looking over these figures that have been presented by the attorney and by the tribal council and others, who have a good idea of the damage, take those statements into careful consideration.

I thank you, gentlemen.

Mr. LEMKE. May I just ask a question?

Father TENNELLY. Yes, Mr. Lemke.

Mr. LEMKE. When you were out there I think you found what I have found: A highly civilized, educational, social, and economic unit of Indians.

Father TENNELLY. Yes, sir.

Mr. LEMKE. The same as you would by going to any village of white people.

Father TENNELLY. Yes, sir.

Mr. LEMKE. To your mind that would have an intangible value the same as good will, when we take a business property over.

Father TENNELLY. Yes, sir.

Mr. LEMKE. Under the constitutional provision of just compensation, that should be taken into very serious consideration.

Father TENNELLY. I think so.

Mr. LEMKE. That is all.

Mr. MORRIS. Thank you very much, Father Tennelly, for your statement.

Mr. Whitman.

I would like to have you consider the game angle next, and with regard to the deer, we have Vice Chairman Joe Packineau.

#### STATEMENT OF JOSEPH PACKINEAU, JR., VICE CHAIRMAN, FORT BERTHOLD TRIBAL BUSINESS COUNCIL OF THE THREE AFFILIATED TRIBES

Mr. PACKINEAU. Mr. Chairman and gentlemen.

Mr. MORRIS. You may proceed.

Mr. PACKINEAU. I am Joseph Packineau, Jr., vice chairman of the Fort Berthold Tribal Business Council of the Three Affiliated Tribes.

The Plains Indians at one time had, as their main source of food supply, the buffalo of the prairies and the deer along the rivers and streams.

We at one time had 12,000,000 acres in our reservation with all the buffalo and deer we could use. Today the buffalo are gone. We have been turning over our lands to the Government until today we have left only 550,000 acres.

The buffalo have vanished with our once vast area.

We, at the present, have plenty of deer on the Big Missouri, and the Little Missouri River bottoms. It is this very part of our reservation that we are losing, and our supply of meat from deer will disappear as have the buffalo.

Meat has always been the main source of my people. Every family on the reservation adds to their food supply with at least two deer each



year. This is a big item for people who are struggling to take care of their families. Our custom of hunting is to share with your fellow hunters and neighbors alike. It is a custom where nobody is left out on the kill within the party.

I am sure that you gentlemen have some idea about the cost of meat these days in your grocery bill every month, and you can see how much it must mean to my people when they are short on money and all they need to do is to go into the woods and bring home a deer to help feed their children. If it was not for this valuable source of meat supply, many of our little boys and girls would not be as healthy as they are today. This Garrison Dam is going to take away all of this. There will be no forestry area left on the prairie flats where the deer can go to. They will be driven entirely away from our reservation that will be left. We will lose this important food supply forever. I know our contract will pay us for our land and timber, but it does not replace this supply of deer meat that would have been ours only for the taking for all time to come.

The Joint Resolution 33 is presented here, gentlemen, with an item of 6½ million dollars. If the Congress of the United States will act favorably on it, this amount, with its other provision, will help us to rehabilitate ourselves in the cattle and other businesses so it will not be necessary for us to depend on this deer supply that will be lost.

I wish you could come to our reservation in the proper season and see how my people hunt deer and share the meat with all the families. It may look like a small thing, but it means an important part of our living.

I earnestly hope you will recommend passage of this legislation. If it is passed as it is now presented to you, it will help us to get on our feet. We will be able to take care of our families even though our bottom lands disappear and our deer go with it. While we will miss the great sport of deer hunting, with this legislation enacted, we will be able to work out other ways to provide food for our children, and while other meat does not taste as good, we will have money to buy it and it will help to keep them healthy.

The Indian hunter uses about every part of the deer he kills. The hide which is used in many things too numerous to mention; the sinew is used for thread, the hair for saddle packing, the others are used for decorations.

Mr. MORRIS. That is a very good statement, and a very interesting statement. We appreciate it very much.

Are there any questions, gentlemen?

Mr. LEMKE. The only thing I have to say is that when I go hunting the next time I will join Mr. Packineau, so that he will divide with me.

Mr. PACKINEAU. You are certainly welcome to come along with me.

Mr. WHITMAN. Mr. Chairman, I would like to introduce Mr. Ben Heart, who will speak on coal and the lignite angle, since he has experience in mining out there.

Mr. MORRIS. I want to compliment you on the way you are arranging this. It certainly shows forethought and organization. You are very, very helpful to the committee by calling on these parties to speak on specific points. I like that arrangement very much.

(Discussion off the record.)

STATEMENT OF BENEDICT HEART, MEMBER, BUSINESS COUNCIL,  
THREE AFFILIATED TRIBES

Mr. HEART. Mr. Chairman and members of the committee, I appreciate very much, from my heart, the opportunity you have extended to us. Otherwise, if we had adjourned, I would feel as though I were put in another room. I can sense the democracy of this United States when you say, "All right, we will go on."

Mr. MORRIS. Thank you a lot. We are glad to have you with us. We assure you of that. You may proceed.

Mr. HEART. Mr. Chairman and members of the Eighty-first Congress of the United States, I am Benedict Heart, an Arikara, a duly elected member of the Three Affiliated Tribes' Business Council. As I understand it, we are to justify the \$6,500,000. In my mind, this is very unusual. Here we are in a fine reservation with a lot of natural resources. The United States wants to buy our land for their use. We know it is a fine place, and if it is to be sold, we want our price, and so named it.

In private business a lot depends on whether a person is trying to buy or sell. In this particular case we are neither the buyer nor the seller. I fail to see where a justification is necessary, but since we have no alternative, in my opinion this should not be hard. To give a sample I will point it out in one of our natural resources, lignite coal.

I am picking on this because I have mined coal, not only for my own use. The use of this coal, to us, has proved its worth this year. I am safe in saying this, that there has not been one family that ever froze because of a lack of coal all these long years we have lived there.

The loam soil that covers the coal has been very easily removed with our common tools. With your naked eye you can see the coal streaks along the banks. The vast stretch of this reservation runs east and west, in which the river divides it, to its length of something like 70 miles long, and bears lignite coal on two sides of this valley, which means approximately 140 miles of coal.

These tremendous coal deposits and its byproducts could have become available and invaluable to our Nation in time of national defense. We, the people of this taking area for the Garrison Dam, experienced long winter months, but fortunately with nature's supply of this coal, have kept us in comfort.

The unfortunate Indians without heavy trucks but by means of horses can get their coal to their homes in 4 or 5 hours' time. The wood and coal worked like a team, both of which are within our reach.

As I understand it, Garrison Reservoir is to be the world's largest man-made dam. Then it becomes the largest coal deposit lost to the Indians and the State.

I am in sincere hope that this Eighty-first Congress will not overlook their desire for fair play.

Mr. MORRIS. We appreciate that statement very much, and we certainly will give most careful consideration to this most important element, the damage and the loss of this particular coal area to your people. That is an important matter and we will give consideration to it. I assure you.

Mr. LEMKE. Mr. Chairman, I just wish to call the committee's attention to the fact that these statements which are being made by these



different witnesses, I know of my own personal knowledge are their own statements and were not prepared for them.

Mr. MORRIS. I can sense that, and that is why I appreciate them so much, because they have been laconic or short, pertinent and pungent, to the point, and show originality and show a grasp and knowledge of the subject matter. They are important.

I am not saying that just to make you feel good, but your statements are universally good here this morning, and I appreciate it very much.

Mr. WHITE. Do you mine coal?

Mr. HEART. Yes.

Mr. PACKINEAU. Mr. Chairman, may I tell you a little thing that happened: Mr. Heart, in writing up his statement, was lying on the floor of the hotel to do it.

Mr. MORRIS. Well, I think the story goes that Lincoln wrote his famous Gettysburg Address on a piece of waste paper or some say on the back of a paper sack. There are all kinds of theories about it, but whatever paper he used, I think he just picked it up somewhere on the train, and wrote one of the greatest speeches ever written by a human being.

Mr. SILVESTER. Mr. Chairman, I would like to say a few words about the length of the coal bed on both sides of the valley.

Mr. MORRIS. All right.

Mr. SILVESTER. When I was chairman of the council about 6 years ago I measured with a tape measure the crook of that River Missouri from the point it enters the reservation to the point where it goes out. It is 81 miles of meandering river, and 51 miles of the Little Missouri. If you added it together and doubled it, that would be about the length of the coal seam that will be destroyed by this irrigation project.

Mr. YOUNGBIRD. I would like to say something, also, Mr. Chairman.

What I wanted to put in here, Mr. Chairman, on the qualifications of these men is that we have been busy working in our own fields for our younger men and more brighter men, who did not represent us on the other parts. We had few representatives.

When the Wheeler-Howard Act comes in, and the Indian Bureau has been knocked time and time again, the men that did not have a thing to do but go from one house to the other, were the only ones doing the knocking.

That is a little bit out of the way, but I wanted to bring that out clearly. We really cooperated. Without the Indian Bureau we would be very much handicapped in our operation.

Mr. MORRIS. All right. Thank you.

Mr. WHITE. I want to ask you a question or two here on coal.

How thick is the seam where you are mining coal?

Mr. HEART. That varies from 4 to 6 feet.

Mr. WHITE. You do not have to take any waste material to get the coal?

Mr. HEART. Not very much.

Mr. WHITE. I imagine the amount has been estimated. I see here a statement of lignite fuel for 360 families at 25 tons annually, 9,000 tons, \$54,000, and at 4 percent it would be \$1,350,000.

Is this coal uniform over all the underground reservation, so far as you know?

Mr. HEART. Well, there is quite a lot of places that it is.

Mr. WHITE. I notice you put in wood here. What percentage of the Indian families use wood for fuel and what percentage of the Indian families use coal for fuel?

Mr. HEART. Well, I believe it would be 100 percent. It takes both the wood and the coal, which work together. We use the wood to start off the fires in the morning, and to hold our fires we put the coal in. That holds the heat.

Mr. WHITE. You have vast reserves. If there were any industry started there would be plenty of fuel for industry in this section?

Mr. HEART. Yes, sir.

Mr. WHITE. I think that is all, Mr. Chairman.

Mr. MORRIS. Very well. Thank you.

Mr. WHITMAN. There is another phase of this. Quite a bit of stress was put on by our general counsel on the timber, but that was not covered here. I believe one of my colleagues, Theodore Baker, has that subject.

Mr. WHITE. As a matter of fact, the timber on the lowlands, this cottonwood, when flooded, will all die?

Mr. WHITMAN. Yes.

Mr. WHITE. Down at the Fort Peck Reservation they have not bothered to cut it down. It is just dead timber. Is that what you anticipate?

Mr. WHITMAN. Yes.

Mr. CASE. May I answer that? The plan of the engineers, which they have freely disclosed and discussed with us, is that the timber will be cleared. The bottom of the reservoir would be cleared entirely before the water covers the land.

If it is left to them—and I cover this in my brief—it will be necessary for them to simply drop the timber, bulldoze it into piles, set fire to it, and burn it to get rid of it.

Otherwise, there is so much timber that it would foul up that reservoir for a century. They must get rid of it.

Mr. WHITE. Why is it they did not do that at Fort Peck?

Mr. CASE. That I do not know.

Mr. WHITE. You know, as a matter of fact, at Fort Peck the upper part of the trees and the branches are exposed above water. They are dead. When the ice freezes, it is solid enough so that the people can go out and reclaim a part of the upper branches, and haul them off the ice. That is what is going on now at this moment, while I am talking to you.

Mr. CASE. Our plan is that if the committee will make the one amendment that the tribe asks for, to extend the period in which we can take that timber, we will take all the usable, merchantable timber. That is our right under the contract to do that.

Mr. WHITE. Do you think that is practical? Could you go in and log timber under the present conditions and find storage places to keep it? Cottonwood decays quickly. You would have to have some means of manufacturing it. Is that a practical plan?

Mr. CASE. It is. We have in view putting in a portable mill or two or three. We have an offer from the Engineer Corps at least to consider carefully the idea of their loaning us three complete portable mills that are capable of handling heavy timber.



If we succeed we would log that area, mill it, and store it on the highlands which will not be flooded. If cottonwood is properly stored it will not be deteriorated materially.

At the same time, we are going to need lumber for the reconstruction of our houses. We have the right to salvage our homes under the contract.

Mr. WHITE. That would take quite a little capital. How would you finance that?

Mr. CASE. That would be carried out of this appropriation, when made.

Mr. WHITE. If we get it in time.

Mr. CASE. If we get it in time.

Mr. WHITE. But if we do not get it in time this will all be destroyed.

Mr. CASE. We are going to lose several million dollars' worth of timber. We want a little more time, I might say, as to the logging operation itself, which is limited by the contract to October 1, 1950. That is only a year from next October. Give us a little more time and we can do it. That is only one winter to log that area. That is not time enough. If we have that date advanced by the Congress till 1952 we will have time enough to salvage that very valuable belt of timber.

Mr. WHITMAN. I would like to introduce Mr. Theodore Baker, a councilman from the Independence district, who will speak on some of the uses of the timber.

#### STATEMENT OF THEODORE BAKER, MEMBER OF THE BUSINESS COUNCIL OF THE THREE AFFILIATED TRIBES, FORT BERTHOLD

Mr. MORRIS. Have a seat, Mr. Baker, We are happy to have you with us, and we will appreciate your statement.

Mr. BAKER. I am duly elected by the tribe as a member of the business council of the Three Affiliated Tribes of the Independence district.

You have heard before from my associates, who have covered almost everything, but I was assigned the subject of the timber that affects our reservation.

In my district where I live, I live 65 miles from the closest town, and when this dam comes through, in order to provide for myself as a farmer or to build, I would have to go to Wadford City to take care of my needs.

Mr. WHITE. How many miles would that be?

Mr. BAKER. 65 miles, sir.

To make everything short, I believe everything has been generally covered, but it is my sincere wish that you gentlemen will give fair consideration to Joint Resolution 33.

Thank you.

Mr. MORRIS. May we ask you just a question or two about the timber there? It has been mentioned that there is cottonwood, ash, willow, and different kinds of timber. I take it that you are very familiar with the timber situation; are you not?

Mr. BAKER. Yes, sir.

Mr. MORRIS. What, in your judgment, are some of the percentages there? That is, does willow predominate, does cottonwood pre-

dominate, or does ash predominate, and will you describe the wood there?

Mr. BAKER. Cottonwood predominates.

Mr. MORRIS. Cottonwood predominates?

Mr. BAKER. Yes, sir.

Mr. MORRIS. What about ash; is there a considerable amount of ash there?

Mr. BAKER. Yes.

Mr. MORRIS. What else is there there besides cottonwood, ash, and willow; what other kinds of timber?

Mr. BAKER. Well, there are berry bushes of different kinds—three or four different kinds.

Mr. MORRIS. Are the trees good-sized trees, or is it generally small timber?

Mr. BAKER. There is some good-sized timber. It varies with the type.

Mr. MORRIS. Is there any hardwood there; is there any other hardwood of any kind there?

Mr. BAKER. Oak and ash.

Mr. MORRIS. Oak?

Mr. BAKER. Yes, sir.

Mr. MORRIS. There is no walnut and no mahogany, I guess?

Mr. BAKER. No, sir.

Mr. MORRIS. Is there any walnut?

Mr. BAKER. No, sir.

Mr. MORRIS. Are there any pecans there?

Mr. BAKER. No, sir; I do not believe there are in the State of North Dakota.

Mr. MORRIS. I love pecans. We have a lot of them in Oklahoma, and in Texas, and there are some north of Oklahoma, but I do not suppose you have any that far north.

Mr. WHITE. It is characteristic of the States of North Dakota and Montana that the timber along the streams, the saw timber, is practically all cottonwood; is it not?

Mr. BAKER. Yes, sir.

Mr. WHITE. Are there any sawmills of any kind manufacturing any timber on the reservation? Is there a sawmill on the reservation anywhere?

Mr. BAKER. Yes, sir; there is.

Mr. WHITE. They are logging this timber and making lumber out of it?

Mr. BAKER. Yes, sir.

Mr. WHITE. And there are a great many log houses along the river which are made out of felled cottonwood?

Mr. BAKER. Yes, sir.

Mr. WHITE. They make very fine buildings.

Mr. BAKER. They do.

Mr. WHITE. And if the plan is carried out to salvage this timber and log it, it will be a job for several mills; will it not?

Mr. BAKER. Yes, sir.

Mr. WHITE. It would take a lot of labor.

Mr. BAKER. That is right.



Mr. WHITE. And at the present price of labor it will be a pretty expensive job.

Mr. BAKER. Yes, sir.

Mr. WHITE. What do you pay a man that works in the woods a day now for cutting logs or things of that kind?

Mr. BAKER. I am not very familiar with that.

Mr. WHITE. I will say to the committee that in Idaho they get about \$20 a day working on a piecework basis, sawing down timber or logging it. Those who work in the sawmills get \$8 or \$9 a day. It would take quite a lot of capital to salvage this timber, put in a sawmill, and saw it up and save it before the water comes in from the dam.

Is much wood cut for fuel there?

Mr. BAKER. Yes, sir.

Mr. WHITE. It is mostly cottonwood?

Mr. BAKER. Yes, sir.

Mr. WHITE. There is not very much of the other timber you mention, such as ash and things of that kind?

Mr. BAKER. Well, I could safely say that it furnishes all of the fencing.

Mr. WHITE. Pardon me?

Mr. BAKER. I say it furnishes all the fencing.

Mr. WHITE. What do you use for posts where you build a fence?

Mr. BAKER. Ash and willow.

Mr. WHITE. Ash and willow?

Mr. BAKER. Yes, sir.

Mr. LITTLE SOLDIER. I might refer to this map and say that we provided the fence posts for practically this whole area out of our timber, and the kind used was dependent on the part of the reservation we were in. We used ash posts down in the southern part due to the fact that it is not very rough. The terrain is rougher over here [indicating], and we have cedar there.

Mr. WHITE. Do you have some cedar on that reservation?

Mr. LITTLE SOLDIER. That is right; not much, but we do have it.

Mr. WHITE. But you find enough cedar there for fence posts?

Mr. LITTLE SOLDIER. That is right, and we fenced this area [indicating on map] with cedar posts.

Mr. WHITE. They are very valuable and they last a long time.

Mr. LITTLE SOLDIER. That is right. That is about the best hardwood we have there.

Mr. WHITE. I think you have it backwards. I think the lumber people classify cottonwood as hardwood, and cedar as softwood.

Mr. LITTLE SOLDIER. Well, I am not a lumberjack.

Mr. WHITE. That is all.

Mr. MORRIS. All right; I believe that is all. Thank you.

Mr. WHITMAN. Mr. Chairman, if possible, I would like to introduce one part of it where the Indians realize revenue out of their natural resources; that is, trapping. Beaver were stressed, and although the game part was covered, I would like to ask Mr. Mahto to cover one other part, trapping.

I would like to introduce Mark Mahto.

STATEMENT OF MARK MAHTO, MEMBER OF THE FORT BERTHOLD  
TRIBAL BUSINESS COUNCIL

Mr. MAHTO. Mr. Chairman, I am going to stand and give you a short talk.

Mr. MORRIS. All right, if that is your pleasure, it is our pleasure and we will permit you to do that.

Mr. MAHTO. Mr. Chairman, I am a member of the Fort Berthold Tribal Business Council, and belong to the Mandan Tribe.

Believe it or not, I have seven names. I am carried on the rolls as Mark Mahto. According to an Indian custom, I was given four names by our Mandan chief, Old Bear, when I was old enough to be named. Out of those four names the Mandans in the district in which I live use the name Plain Voice to identify me. In councils and Indian dances I am known as Bear on the Water, a name I bought from my Uncle Thomas Spotted Wolf. Among the real old-timers, Indian men and women, I am known as Old Man Chicken Bear. These names are not nicknames: They are authentic, ceremonial, bought-and-paid-for names.

Mr. Chairman, the subject I am given to speak on is trapping. This occupation is dear to the hearts of all male adults on my reservation. We promulgate our own laws on hunting and trapping, without governmental approval and want to see it continued forever regardless of whether the Garrison Dam can stand up or not.

Trapping on the Fort Berthold Reservation is an industry that supplies food and clothing and other necessities of life to the majority of our Indian families.

This industry has a potential value of \$1,000,000. We are looking into the future—a hundred years from now—when the Indians of the Fort Berthold will have trapped 100,000 fur-bearing animals to be sold at an average of \$10 a pelt. Trapping on our reservation is essential to our very livelihood as proven by 99 percent of the male adults dabbling in furs in one way or another.

Badger, beaver, mink, weasel, fox, and coyote are some of the fur-bearing animals caught. They are taken from November to April. The muskrat is good from March to May. The proceeds from the sale of a winter's catch will often tide the Indian trapper over to harvest-time.

In fact, gentlemen, the Missouri Valley in the Fort Berthold Reservation is our social security.

These fur-bearing animals, especially the beaver, are a very valuable resource. When the Garrison Dam is filled with water, our timber will be destroyed forever which in turn will deplete the beaver population if not totally destroy it.

Gentlemen, at this time, I want to correct my attorney, Mr. Case, who said when this Garrison Dam is built and the reservoir is filled with water the fur-bearing animals will multiply, which is a mistake. I know from experience. I am a trapper, and I know what I am talking about. When the reservoir is filled with water, all of the sloughs where you find muskrats will be destroyed, and where would they go? They will go either downstream or upstream; they will leave our locality.



When this is done, one of our natural resources will be taken away from us. It took the beavers hundreds of years to build these valuable bottom lands in our reservation. It will take the Garrison Dam a few years to create a giant mud puddle.

In a few years, our rich bottom lands, which took nature hundreds of years to build, will be destroyed forever.

In conclusion, allow me to state that our reservation, the Fort Berthold Reservation, is tax-free and the property of the Three Affiliated Tribes, "as long as grass grows and water flows."

I thank you.

Mr. WHITMAN. Mr. Chairman, I would like to again extend our tribe's appreciation for the time you have provided for us and the intense interest that you have given our cause. We deeply appreciate that on behalf of our people and the council here.

Mr. MORRIS. It has been a real pleasure to have you with us, and we have learned a lot, at least I have, and I imagine the other members of the committee have. Some of them were more familiar with your problem to start with than I was, but I imagine that even they have learned something, and I have learned a lot. I assure you that it has been a pleasure to have you here, and we will give most careful consideration to this problem, and we will try our very best, as far as this committee is concerned, to act on this matter one way or the other expeditiously in the very near future, just as soon as we can complete our hearings and get a little time thereafter to act.

I hope that that will be in the very near future, and we expect that it will be in the very near future.

Mr. WHITMAN. We appreciate that.

Mr. MORRIS. We are going to try to dispose of this matter right away.

(Discussion off the record.)

Mr. MORRIS. We will recess, then, until Monday at 10 o'clock, in room 223.

(Thereupon, at 1:20 p. m., the subcommittee recessed until Monday, May 2, 1949, at 10 a. m.)

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 RESERVA-  
TION, N. DAK., AND FOR OTHER RELATED PURPOSES

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MONDAY, MAY 2, 1949

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INDIAN AFFAIRS OF  
THE COMMITTEE ON PUBLIC LANDS,  
*Washington, D. C.*

The subcommittee met, pursuant to adjournment, at 10 a. m., in the caucus room, House Office Building, the Hon. Toby Morris (chairman of the subcommittee), presiding.

Mr. MORRIS. The subcommittee will now come to order.

We will proceed with our hearings on House Joint Resolution 33.

I believe there is no particular assignment of witnesses this morning. I take it that the bulk of our testimony is behind us. We have a few more witnesses to hear from, I understand.

As is the usual custom, I am going to call on the author of the bill, Congressman Lemke, to make suggestions as to whom he would like to hear from first.

Mr. LEMKE. Mr. Chairman, I have two telegrams here I should like to insert in the record at this point, which come from people not directly connected with this, but who live in the vicinity of Garrison Dam.

Mr. MORRIS. The chairman has examined the telegrams and they will be inserted in the record at this point.

(The telegrams are as follows:)

KILLDEER, N. DAK., *April 28, 1949.*

BILL LEMKE,

*House of Representatives, Washington, D. C.:*

Please approve resolution H. J. 33.

KILLDEER TOWN CRIERS.

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HALLIDAY, N. DAK., *April 29, 1949.*

WILLIAM LEMKE:

Approve House Joint Resolution 33 affecting Fort Berthold Indians.

HALLIDAY CIVIC CLUB.

Mr. LEMKE. Mr. Chairman, I think we should call on Mr. Provinse to give the position of the Department of the Interior. General Pick is here, however. I do not know how much haste he is in, but I think the facts would come out so that we could have his remarks afterward,



if that is agreeable. We could have any concluding remarks he wishes to make after the Department of the Interior has been heard, if that is satisfactory.

Mr. MORRIS. What do you suggest, General Pick? We could hear from you right now to accommodate you. The Department witnesses nearly always have an understanding that they have to be here for some time. I am sure Mr. Provinse would be in no big hurry.

Congressman Lemke's suggestion is that you probably would be in a better position to testify or to make a statement after Mr. Provinse than you would be before, for the reason that we realize that you have just recently been called in on this matter.

Maybe you would rather hear his testimony before you make your statement; but, if you prefer to make yours first, we would be glad to hear from you at this time.

General PICK. I would be glad to abide by whatever the wishes of the chairman are. If you want to hear him first, that is all right.

Mr. MORRIS. You can spend that much time with us?

General PICK. Yes.

Mr. MORRIS. Very well. We will hear from you now, Mr. Provinse.

**STATEMENT OF JOHN H. PROVINSE, ASSISTANT COMMISSIONER, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY ALLAN G. HARPER, ASSISTANT REGIONAL DIRECTOR, BUREAU OF INDIAN AFFAIRS, BILLINGS, MONT.; AND SAMUEL J. FLICKINGER, ASSISTANT CHIEF COUNSEL, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, WASHINGTON, D. C.**

Mr. PROVINSE. Mr. Chairman, the committee already has the report of the Secretary.

Mr. MORRIS. Yes, sir.

Mr. PROVINSE. Which was accompanied by a fairly long memorandum of information which has now been printed by the committee as Committee Document No. 1 in very convenient form.

I think it might be worth while for the Department to summarize what is contained within this letter and supporting memorandum.

I have with me today the two people who have been most responsible for the preparation of our report, Mr. Allan G. Harper, assistant regional director in the Billings office, also in charge of the Missouri Basin surveys, and Mr. Sam Flickinger from our legal office in the Washington office, who has handled principally the legal aspects of the problem.

I think it might save the time of the committee if I could ask both of those gentlemen to join me here at the table so that if there are questions which come up they can contribute their knowledge at the same time.

I think that will save the committee the necessity of calling additional witnesses.

Mr. MORRIS. That is definitely all right, and I think that we should follow that arrangement of witnesses.

Mr. PROVINSE. I shall touch only briefly on the contract, which is the first part of the joint resolution, section 1. I would prefer to con-

concentrate my remarks on sections 2 to 11, which contain the provisions for supplementary compensation.

In my view, the contract successfully resolves a large number of issues which have vexed a solution of the problems arising out of the taking of 155,000 acres of the Fort Berthold Reservation for the Garrison project.

1. The contract contains the logical provision (art. XIII, which will insure sufficient money to carry out fully the purposes set forth in Public Law 296. If it should prove that the financial requirements for paying for the appraised valuation of the property and for paying for removal costs (including removal of graves) should exceed \$5,105,625, the United States is committed to defray the cost in excess of that amount. This provision resolved the dispute between the Corps of Engineers on the one hand and the Indians and the Indian Bureau on the other hand as to the justness of limiting the settlement for these costs to an arbitrarily fixed amount—namely, \$5,105,625—fixed prior to the time when these costs could have been realistically determined.

2. The contract insures (art. V) an orderly removal of the Indians from the taking area of the Garrison Reservoir, with removal costs defrayed by the Government. This provision recognizes that the complete cost of removal ought to be borne by the Government. In similar removal cases in the past, Indians often have been incapable of accomplishing their own removal. Compelled to expend their compensation on removal costs, they had too little to acquire comparable lieu property. If they were deterred from acquiring new homes, they used up their compensation on living expenses, and had little or nothing left for either removal or resettlement.

3. Article IV, section 3 of the contract protects the constitutional rights of the tribe and of individual Indians to reject the appraisal placed on their property in accordance with the procedure set forth in article IV. I consider that this provision is a very necessary guaranty of the Indians' rights to secure judicial determination if they are not satisfied.

4. The Indians are adequately protected by article X as to their right of access to the waters of Garrison Reservoir and to the area between the taking line and the actual water line of the reservoir. Their hunting and trapping treaty rights are to be protected fully within the taking area, but they have very reasonably agreed to forego their treaty fishing rights in the interest of conserving the fisheries resource which will be created in Garrison Reservoir.

5. The salvage provisions contained in article XI of the contract are generous ones. Without payment, the Indians are to be permitted to remove their homes and other improvements. They will also be allowed to salvage the standing timber within the taking area, similarly without making any payment therefor.

6. The contract goes beyond the requirement for paying for any existing minerals in the taking area and guarantees that if, in the future, any subsurface deposits are discovered, the Indians' interest therein will be protected (art. XII).

7. The contract contemplates a speedy distribution of the moneys paid to the Indians by the superintendent of the reservation under rules and regulations to be issued by the Secretary of the Interior. In



this, it is hoped no undue delay will be experienced in getting the money out to the Indians for useful and necessary purposes once the contract is approved (arts. VII and VIII).

While the contract, as a whole and in its several articles, is a good one, it does not provide a complete settlement nor does it resolve all of the problems which are involved. Sections 2 to 11 of the joint resolution attempt to deal with these residual questions. Attention is focused on three principal provisions which add materially to the contract settlement: (1) The appropriation authorization of \$3,000,000 to establish a land readjustment fund, (2) the appropriation authorization of \$6,500,000 for additional compensation, and (3) the reservation of 20,000 kilowatts of Garrison electric power for the Indians and the commitment of the United States to build the necessary transmission and distribution system.

I should like to deal at some length with each of these three additional items of compensation.

1. Land readjustment fund (\$3,000,000) : You will recall that, under a previous proposal, the removal of the Fort Berthold Indians was to have been effected through the selection and offer of lieu lands, "comparable in quality and sufficient in area." The proposal proceeded from a recognition of the fact that after you take away the river bottom lands of the reservation, the Indians have remaining in their ownership some 437,000 acres of mostly upland summer range lands.

Now, under the present settlement, it is contemplated that the majority of the removed Indians will have to readjust themselves to these residual upland range lands. Leaving aside the question of making the necessary land use readjustments in relation to their cattle industry, it is very clear that they can move successfully to the residual lands only if they can speedily readjust the pattern of ownership which will enable them to create economic units of use. All of these residual lands are allotted, with the ownership distributed widely among the members of the tribes and among heirs of the original allottees. No allotments of these range lands exceed 320 acres, but as we well know, a ranch lay-out in that country requires around 2,500 acres.

The proposal to set up a land readjustment fund to be used in assisting the Indians in consolidating their allotted and heirship holdings into units of economic use, I think, is a necessity, indispensable to any plan to relocate the Fort Berthold Indians. I do not regard this proposed appropriation authorization as a real element of "compensation"; it is rather a requirement arising out of the problem of successful relocation.

Of course, given time, the Indians could, with very much smaller financial assistance, effect voluntary exchanges and purchases of land to bring about consolidation. But there simply is not time to do the job on a voluntary basis. If this task of consolidation is not accomplished at the time of removal, I am afraid it will never be accomplished. I clearly foresee that the Indians will, because of this barrier of land tenure, occupy the residual lands in only a small number. The majority of them will, I fear, drift off reservation to settle in the cities and towns, not as real members of such communities, but as squatters in tarpaper shacks outside the city limits. We have too much of that sort of thing already, and I am sure that you will agree with me that we should do everything in our power to avoid a repetition.

Section 2 of the joint resolution authorizes an appropriation of \$3,000,000 to establish the land readjustment fund. The fund is to be administered by the Commissioner of Indian Affairs, and its operation terminated at the end of 10 years. Any unexpended balance in the fund at the end of the 10-year period is to be returned to the Treasury, and any land which has not been deeded to members shall be held by the United States in trust for the tribes and shall be nontaxable and nonalienable until otherwise provided by Congress. Section 3 elaborates the purposes and operations of the fund: It is to be operated to consolidate the allotted lands into economic use units. Allotted, inherited, and unrestricted lands, as well as interests in lands and improvements, may be acquired by purchase or exchange by the fund which can, through sale or exchange, dispose of such lands to individual Indians. Proceeds derived from the Garrison land taking may be used by individual members of the tribes to acquire lands purchased or otherwise acquired by the fund. To care for needy members, the fund may take lands in tribal ownership for assignment to such persons.

It is visualized that the fund would be used to acquire a stock of lands within the reservation boundaries (1) to purchase lands in the residual reservation from Indians who want to relocate outside of the reservation. By adding together compensation derived from sale of land in the reservoir right-of-way to the proceeds derived from the sale to the fund of land in the residual reservation, an Indian family would have more adequate means of buying a new farm or ranch, and/or going into some other economic enterprise. (2) To purchase lands in the residual reservation either from Indians or white patentees in order to block up consolidated, family-sized, economic units for farm or ranch purposes. (3) To acquire tribal lands for assignment to landless Indians who must remove from the right-of-way. (4) To sell or exchange acquired lands to Indians or white.

We estimate that it will take a little more than \$3,000,000 to set the fund in operation—\$3,099,345 to be exact. The detail is contained on pages 18-19 of the memorandum which accompanied the departmental report on the joint resolution.

2. Appropriation authorization of \$6,500,000: We come now to that section of the joint resolution about which I feel sure the committee wishes to be very certain, not only as to whether the specific amount is excessive, but also as to whether the amount is sufficiently adequate.

Admittedly the Congress would be breaking new ground in Indian affairs by the enactment of section 4 of the joint resolution. It would be cutting loose from the tradition that, in settling claims for the breach of an Indian treaty, the Government leaves the reckoning up to the Court of Claims. It would be settling a precedent that the time to settle such a matter is when the damage is done.

I am very sure in my own mind that this would be a salutary reform in Indian affairs. We have frequently seen all too clearly the ravages wrought on whole Indian tribes as they waited and hoped for Court of Claims awards. We have seen the results of the festering sense of injustice. I am quite sure that, unless Congress adopts the proposal before it in section 4, we are, in the years ahead, going to reap another harvest of tribal resentment and noncooperation.

Mr. MORRIS. Pardon me just a minute there, Mr. Provinse. Do you mean article IV or section 4?



Mr. PROVINSE: Section 4, I think it is.

Mr. MORRIS: Of what article?

Mr. PROVINSE: Section 4 of the whole bill, which would be on 70 and 71. It begins at the bottom of page 70.

Mr. MORRIS: Let us identify that. That is section 4 of what article?

Mr. PROVINSE: Section 4 of the bill. The contract terminates on page 69. Then section 2 begins the new sections that I am talking about.

Mr. MORRIS: That is right. Up to that time it is best identified by articles, but that terminates the contract.

Mr. PROVINSE: That is right.

Mr. MORRIS: Very well. Proceed.

Mr. PROVINSE: The basis of the proposed appropriation of \$6,500,000 is that a complete and final settlement will be affected—section 9 of the joint resolution—in consideration of the virtual destruction of the reservation guaranteed by the Treaty of 1851, and in consideration of the tribe's constitution which granted the power to veto alienations of tribal land. (27,729 acres.)

It is difficult to determine the intangible damages of this character.

We in the Indian Bureau have preferred to approach the problem by evaluating two categories of measurable and justified compensation, namely—

1. Compensation for losses of property which will not be covered under fair market value in the settlement under the contract.

2. Compensation adequate to cover the costs of social and economic needs arising directly from the disruption of the life of the Fort Berthold Indians on account of the taking of their lands for the Garrison project.

In the memorandum which accompanied the departmental report on the joint resolution, we have set out at length our analyses, estimates, and justifications of these two bases of calculation. By our reckoning, we have seen at least \$6,440,400 that should be appropriated. It is our conclusion that the amount proposed—\$6,500,000—is not excessive, but rather that the amount, if anything, could be pushed up to a higher figure. However, I am of the opinion that if you are prepared to include section 5 which reserves a block of power, which I shall presently discuss, the amount may be safely left at \$6,500,000.

To return now to a consideration of the first basis of calculation, namely, compensation for losses of tangible property which will not be covered by payment under the contract of May 20, 1948: We believe that on this score alone, three legitimate claims should be recognized, totaling \$3,291,043.

(a) Compensation for the loss of the future supply value and supplemental value of standing timber, not covered by contract appraisal: Under article IV, section 1 of the contract, the Fort Berthold Indians are to receive the appraised value of standing timber on a fair market value basis. Payment on this basis does not represent the real tangible value for its future supply utilization, as well as for its continued use year after year for house logs, fuel, and fence posts. The economic function of the timber stand in the life of the tribes makes it far more valuable for these uses than is represented by its fair market value. With the taking of the bottom lands, the timber stand will be

irretrievably lost. The timber within the taking area furnishes the proper environment for recreational areas for the Indians, for wild-life habitat and for many fruits, such as June berries, wild plums and grapes, choke cherries, and buffalo berries. The timber also moderates the local climate and furnishes protection to the Indians and their livestock.

The Fort Berthold Indians are entitled to participate in the stumpage values which would be almost sure to increase as the supply of local timber decreases. It will be necessary in the future to secure timber products from a distance with much higher transportation charges. The Indians have a right to anticipate these future supply values which are inevitable. The taking of their land deprives them of the opportunity to realize the benefits of future increased values.

In addition to the increase in the value of the merchantable timber the natural reproduction, which will produce merchantable material in a few years, has a substantial value comparable to the capitalization of the cost of forest plantation. The Indian Service authorizes a valuation of \$3 to \$4 per acre for young hardwood growth. This valuation might be reduced on the Fort Berthold Reservation since some of the larger young growth suitable for fence posts will be included in the appraisal of the fair market value of the standing timber.

These future supply and supplemental values are estimated as at 330,000 as follows: 20,000 acres timber at \$2 per acre, future supply value \$40,000; 20,000 acres young growth at \$2 per acre, \$40,000; 20,000 acres recreation value, at \$2 per acre, \$40,000; 35,000 acres timber and brush, at \$2 per acre, wildlife habitat value, \$70,000; 35,000 acres timber and brush, at \$2 per acre, wild-fruit value, \$70,000; 35,000 acres timber and brush, at \$2 per acre, protection value, \$70,000; total \$330,000.

(b) Compensation for the factor of irrigability of certain lands in the taking area, not covered by the contract appraisal: The appraisal of lands, to be undertaken under article IV of the contract will not include any claim for compensation on account of potential irrigability of certain lands within the taking area. However, in 1942 the United States Bureau of Reclamation made a survey of irrigable potentials of the Fort Berthold Reservation (Report on Missouri River Investigations—North Dakota, South Dakota. Missouri-Souris Project and Potential Units, Investigations Report No. 66). This report and subsequent surveys of the Bureau of Indian Affairs substantiated the fact that the following acreage is suitable for irrigation and meets all the necessary requirements: Shell Creek unit, 4,500 acres; Independence unit, 4,130 acres; Fort Berthold unit, 9,400 acres; Old Agency unit, 6,510 acres; total, 24,540 acres.

Questions of soil adaptability, water rights, topography, and feasibility have been determined and conclusions are that irrigation of these lands, to be taken from the Fort Berthold Indians for Garrison Reservoir, is practical. It is estimated that the irrigable potential increases the value of these 24,540 acres by \$10 per acre. This would result in an amount of \$245,400.

(c) Compensation for the severance of the Fort Berthold Reservation into five residual segments through the taking of the reservation's bottom lands: Although damages for the severance of individual tracts of land are provided in article IV, section 1, of the contract, no compensation is provided therein for the severance of the reservation as



a whole. It must be remembered that the original Fort Berthold Reservation contained 12,500,000 acres and that it was successively reduced to its present boundaries by a series of statutes and Executive orders. The Garrison Reservoir will take the best of the lands remaining in the ownership of the tribes—the heart of the reservation. The bottom lands to be taken represent a complex of valuable characteristics—shelter for homes and livestock, easily developed water, winter pasture, plentiful wild fruit supply, and game in abundance. Taken in conjunction with the upland range, an almost perfect balance of the lands exists in the present reservation. The lands remaining on the reservation will have a definite diminished value. But no account is taken of this fact in the settlement provided by the contract. An estimate of this uncompensated loss is as follows:

Value of reservation before taking: 583,283 acres at an average price of \$25 per acre—these per-acre values I am giving you are based on the current land sales in the area—583,283 acres at \$25 per acre, which does not include 9,439 acres of accretion, \$14,582,075.

Value of remainder after taking: 437,024 acres at an average price of \$18 per acre. In other words, that is a \$7 reduction in the acre value due to the taking of the good lands. That will give you \$7,866,432 for the value of the residual reservation.

That gives a total damage of \$6,715,643.

From that has been subtracted the appraised value for which they will be compensated under the contract. That appraised value, which at the present time must remain an estimate, is \$4,000,000, which leaves a total severance damage balance of \$2,715,643.

I come now to a consideration of the second basis of calculation, namely, compensation for meeting the costs of social and economic needs arising from the destruction of the life of the tribes by the Garrison Reservoir.

The contract of May 20, 1948, provides for the payment of the Indians' costs in removing from the Garrison right-of-way, for costs of developing water supplies and fencing on the residual reservation, and for costs of removing cemeteries. It does not provide funds to enable the Indians to reestablish their shattered economy. Nor does it deal with the problem of those Indians who are to leave the reservation or with the basic fact that, on their diminished land resource, a substantial portion of the tribes must seek to leave the reservation in the future. When viewed from this perspective on the total effect of the Garrison project on the Fort Berthold Indians, there is sound justification for extending substantial aid to them by providing additional compensation for economic and educational programs. Those Indians who remain on the residual reservation and who wish either to remain in, or get into, the livestock business will have insufficient funds to do so, even after their land bases have been reestablished through the land-readjustment fund, as provided by sections 2 and 3 of the joint resolution. Around 90 percent of those who expect to remain on the reservation fall in this category (200 families).

The 49 families who wish to leave the overcrowded residual reservation should be encouraged to do so, but without financial assistance, it is doubtful that very many of them will be able to take this step. Finally, it is very important to note that the compensation to be derived from the taking of the allotted lands will generally go to the

older members of the tribes, or that it will be distributed widely in small amounts to heirs. This result will naturally follow from the fact that the taking area closely blankets the first and oldest schedule of allotments made in 1895. No conformity between compensation and need can be expected. Yet 300 families will have to move and get reestablished economically. From this analysis it is possible to describe two categories of economic need: financial assistance to establish the Fort Berthold people in the livestock business on the residual reservation, and financial assistance to assist members of the tribes to leave the reservation to engage in small business or to acquire homes in relation to definite employment opportunities.

The reduction of the Fort Berthold Reservation through the taking of the best part for the Garrison Reservoir means that within a relatively short time the residual reservation segments will be brought completely into use, with insufficient resources left for the resident population to make a living. A trend to diminish the reservation population should be given impetus, and the only practicable way to achieve this would be by giving the younger generation a considerably expanded opportunity for technical, professional, and vocational training.

An expression of these social and economic needs is as follows:

(a) Assistance to 175 families (or one-half of the expected reservation population) by agricultural and livestock loans, averaging \$12,000 per family, based on the Indian Bureau's experience in administering the IRA revolving credit fund, \$2,100,000.

(b) Assistance to 50 families by small business and/or real-estate loans, averaging \$15,000, \$750,000.

(c) For assistance to an average of 20 young men and women annually averaging \$1,500 per year for 10 years, \$300,000.

Total, \$3,150,000.

3. Reservation of block of power at Garrison Dam: Section 5 sets aside a block of at least 20,000 kilowatts of Garrison electric power, when developed at Garrison Dam, to be delivered at one or more points on the Fort Berthold Reservation, as it may be extended, at a rate not to exceed 2 mills per kilowatt-hour, for uses on the reservation for the benefit of tribal and other enterprises, and for individual members of the tribes. Any of the reserved power not used may be used by the United States.

The Department of the Interior, as you will see from the departmental report, is not prepared to endorse section 5 in the form in which it is written in the joint resolution. A substitute section has been suggested which would drop the 2-mill stipulation for a provision which would make the power available at the "lowest wholesale rate." The substitute section proposes, also, to commit the United States to constructing without cost to the Indians a transmission and distribution system on the reservation.

First, as to the justifications of the inclusion of this section: It must be admitted that there is no direct relation between this provision and any direct or indirect damage done to the Fort Berthold Indians by the construction of Garrison Dam. Its inclusion, however, is warranted from three viewpoints: (1) It would be desirable to extend the benefits of electrification to the Fort Berthold Reservation. The tribes are being required to make extensive sacrifices in



public interest, and it would be only equitable that provision should be made to give the tribes a share of the general benefit to be derived from the Garrison project. (2) An element of additional compensation, in view of the analysis of the \$6,500,000 appropriation. In our view the \$6,500,000 is barely enough to cover losses of property not to be compensated and to meet the Indians' social and economic needs. The addition of this provision in the joint resolution would remove all doubt that this settlement as a whole is complete, final, and just. (3) As a means of effecting rehabilitation of the tribes.

We have recommended that the 2-mill provision be dropped, because it would introduce a preferential rate, contrary to sound public power policy. The cost of constructing a transmission and distribution system has been estimated at \$2,500,000.

In conclusion, viewing the joint resolution as a whole, a summation of the benefits and appropriations therein is as follows:

Section 1: Contract (minimum) \$5,105,625.  
 Sections 2-3: Land readjustment fund, \$3,000,000.  
 Section 4: Indemnity, \$6,500,000.  
 Section 5: Block of power (estimate), \$2,500,000.  
 Total, \$17,105,625.

Amendments in our report.

That concludes all the formal report I would like to make.

Mr. MORRIS. Let me interrupt you just a moment off the record.

(Discussion off the record.)

Mr. MORRIS. You may proceed.

Mr. PROVINSE. Our report makes suggestions for a dozen amendments. Most of these are editorial or simply clarifying in their content. There are one or two, however, that might bring up some discussion.

Mr. MORRIS. What page are you referring to?

Mr. PROVINSE. It is page 9 of this report. Would you wish that I run through these and enter them?

Mr. MORRIS. Yes. It will not take long.

Mr. PROVINSE. I think it should not take long.

Mr. MORRIS. Very well. You might just run through those.

Mr. PROVINSE. On page 20 of the joint resolution, line 18, strike out the first "east" and insert in lieu thereof "west."

On page 69, line 11, the word "land" should be capitalized.

On page 69, line 12; page 70, line 4; and page 72, line 2, strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior, or his duly authorized representative."

Again on page 69, line 16, the second "d" should be deleted from the word "period."

On page 70, lines 12 to 14, strike out the sentence:

Preference shall be given to the original allottee in the purchase of or exchange for lands acquired by the tribes under this section.

On page 70, line 25, strike out the word "all" and insert in lieu thereof the words "any and all claims which they may have for."

On page 71, line 2, insert before the semicolon the following words: "by reason of the construction and operation of Garrison Dam and Reservoir Project, North Dakota." This correction, Mr. Chairman, or this amendment is to take care of the criticism that has been leveled at this bill that this is a settlement for all claims of the Fort Berthold

Indians for all times. It is intended to be only a settlement for the claim for the taking of the Garrison Dam. This language brings that out.

On page 71, line 2, insert after the word "the" the words "disregard or" so that that would read "for the disregard or abrogation of section 5."

On page 73, lines 1 to 8, strike out the following:

within the residual areas of the Fort Berthold Reservation and there shall be constructed, maintained, and operated irrigation works on the lands within the residual area upon the findings of feasibility of providing such irrigation facilities. The provisions for such investigations and irrigation works shall extend to any Indian individual or tribal trust lands acquired in the future.

Insert in lieu thereof the following:

for any Indian individual or tribal trust lands within the residual Fort Berthold Reservation as it may be extended, including any such lands acquired in the future. Any irrigation works and related facilities which, on the basis of such investigations, the Secretary of the Interior determines to be feasible are hereby authorized to be constructed, maintained, and operated under his direction.

On page 73, lines 22 and 23, strike out the date "July 31, 1947" and insert in lieu thereof "May 20, 1948". That is to substitute the date of approval of the contract for the legislation which was originally adopted on July 31.

On page 74, lines 7 to 12, strike out the colon and the remainder of the section and insert a period after the word "Tribes".

On page 74, line 15, after the word "when" insert the following words "accepted by the Tribal Business Council of the Three Affiliated Tribes and".

The following new section should be added for clarifying purposes, which would become section 12:

Lands or interests in lands acquired pursuant to article VII or article VIII of the contract set forth in section 1 of this joint resolution may be sold to or exchanged with the Three Affiliated Tribes or members thereof, or may be exchanged with other persons, in the manner now or hereafter authorized by law for the sale or exchange of lands owned by such tribes or members thereof.

I should also call attention to the fact that on page 8 of our report there is a substitute section 5 to replace the section 5 on power as it now appears on page 72.

I would ask that the section 5 contained in the Secretary's report to the committee, and appearing on page 8 of the Committee Document No. 1 should be substituted on page 72 for the present section 5.

Mr. MORRIS. I do not think you need to read that because we will have to give this study a little later anyway.

Mr. PROVINSE. Probably not.

Mr. MORRIS. I know what the substance of it is. We will have to go over that later.

Mr. PROVINSE. I think there is nothing more of a formal nature to present. If there are any questions I would be glad to try to answer them.

Mr. MORRIS. There will be some questions, I am sure. I was just wondering whether we should proceed. We want to be sure that the general is not required to be called back. I know his time is valuable.

Would you like to make your statement now, General? We do not want to ask Mr. Provinse the other questions, since maybe we should hear your statements now, to help conserve your time.



**STATEMENT OF MAJ. GEN. LEWIS A. PICK, CHIEF OF ENGINEERS,  
DEPARTMENT OF THE ARMY; ACCOMPANIED BY JOSEPH KIMBEL,  
CHIEF COUNSEL, OFFICE OF THE CHIEF OF ENGINEERS, DEPART-  
MENT OF THE ARMY**

General PICK. I would be glad to do so, Mr. Chairman.

Mr. MORRIS. Very well, sir.

General PICK. Mr. Chairman, Mr. Joe Kimbel, our principal attorney in the Office of the Chief of Engineers, is with me. He was directly responsible for coordinating and drafting the contract which is a part of the resolution and is familiar with the entire matter up to date, as it has been handled by the Office of the Chief of Engineers, where this matter has been handled.

Mr. MORRIS. Very well. Proceed.

General PICK. In reference to the resolution I would like to make this statement, Mr. Chairman: As you know, a contract was drafted and was approved by the Secretary of Indian Affairs, the Chief of Engineers, and the Fort Berthold Indian Council. That contract has been referred to the Bureau of the Budget, and on the 29th of March 1949, a letter was written to the Bureau of the Budget which I shall read:

Reference is made to your recent request for the views of this Department with respect to House Joint Resolution 33, Eighty-first Congress, a joint resolution "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."

The primary purpose of House Joint Resolution 33 is to provide ratification by Congress of a contract with the Three Affiliated Tribes of the Fort Berthold Reservation providing for conveyance to the United States of Indian lands within the taking line of Garrison Reservoir, and for the use and distribution of the fund of \$5,105,625 previously authorized to be deposited to the credit of said tribes. In addition, sections 2 to 8 would provide substantial additional benefits to the Fort Berthold Indians.

The contract of May 20, 1948, was negotiated by the Chief of Engineers and is believed to provide a fair and equitable basis of settlement with the Indians for that part of their lands which must necessarily be taken for the Garrison Reservoir project, and the Department recommends early ratification of said contract. The additional benefits proposed in sections 2 to 8 of House Joint Resolution 33 cannot be justified as compensation for the Indian lands now being taken, nor as a proper charge against flood-control appropriations. This Department is not in a position to state whether there are other considerations warranting the provision of these additional benefits.

Ratification of the contract will result in Federal expenditures of approximately \$6,500,000. Sections 2 to 8 would authorize additional expenditures of about \$10,000,000.

This report has been coordinated among the departments and boards in the National Military Establishment in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours.

That is the letter which was prepared and forwarded to the Bureau of the Budget, but up to the present time we have not received any reply to it.

Mr. MORRIS. Who is the author of the letter, General?

General PICK. That letter is prepared for the signature of the Secretary of the Army.

Mr. MORRIS. It has actually been transmitted but you have received no reply?

General PICK. That is correct.

I think, Mr. Chairman, that practically all the information which the Corps of Engineers has is now included in the resolution. That is, the contract which was worked up.

An agreement has been reached, and we are in agreement with the Bureau of Indian Affairs and the Fort Berthold Indian Council on the contract as written.

The other features of the resolution which have been discussed here this morning are matters which we consider do not come within the responsibilities of the Chief of Engineers in connection with this flood-control project. They are matters which we consider were provided for in the Civil Functions Act of 1948, in which it was stated that \$5,105,625 was set up to purchase the lands, and to do certain other work up there on the reservation.

The other features of the law indicate that notwithstanding the said act or other provisions of this act that the said Three Affiliated Tribes may bring suit in the Court of Claims, as provided and so forth, on account of additional damages.

I presume that that is the basis for these additional claims in the resolution.

That is about all that I have to say, sir. I would be glad to answer any questions that may be asked. If I cannot answer them I am sure Judge Kimbel could.

Mr. MORRIS. Very well. Congressman Lemke, do you want to ask the general some questions?

Mr. LEMKE. Yes; I just want to clear up some matters.

General, I think we generally concede that this additional legislation is a matter for Congress rather than for the Corps of Engineers or even for the Bureau of Indian Affairs. That is, Congress must finally determine what is just to these Indians because we are breaking and violating a treaty. They are our wards, to begin with. We are responsible to see that they are going to live, regardless of any damage or land taken.

Would you say that that is a correct statement?

General PICK. I think we have carried out the responsibility that Congress imposed upon the Chief of Engineers when we formulated and got agreements on the contract as included in the resolution.

Mr. LEMKE. In the resolution which has been accepted, although with a gun at their heads, we may say, by the Indians. It was not because they wanted to give up. We had an awful time, as you know. Some said they would stay there, and that you could flood them and drown them and that they would never move.

Nevertheless, because of the importance of the project, the Indians were finally convinced that they had no redress and that they had to sign and depend upon the damages awarded in the original contract with that clause that they can appear before the courts or Congress.

There is nothing there which prevents them from coming to Congress.

As I recall it, the chairman over on the Senate side, where they had a similar resolution before them, decided that there would be no ratification by the Senate, at least the old Senate, until a final settlement were provided, and a final agreement of settlement.



Now, I would like to consider this question of the Indians being our wards. Let us talk about that just a minute.

Is it not true that unfortunately what the dam takes is the heart of what you might call a factory, a factory that kept these 2,000 Indians alive? It takes the heart of it. To me it is the same as going down to condemn General Motors and paying for the machinery in there just as junk. That is all it is, after you take it for another purpose. Then you could let them have the four walls. General Motors would stand a far greater loss than the value of the iron you were taking. They would lose their plant. They would lose the heart of their plant.

We feel, and the Bureau seems to feel with us, that that is correct.

Now we are going outside and taking care of our wards in House Joint Resolution 33.

I am in full accord that your duty is done and has been completed in that contract. What Congress does in connection with the rest of it is not under your jurisdiction, or not so much your concern, but it concerns Congress. Am I right or wrong?

General PICK. That is correct, sir, but I want to correct one statement.

Mr. LEMKE. All right. I will be glad to have it.

General PICK. Neither I nor any member of the Corps of Engineers nor anyone else has held any gun to anybody's head at any time to make them sign anything.

Mr. LEMKE. But the construction was going on. I am using that figuratively.

General PICK. I just wanted to clear that point up, sir.

Mr. LEMKE. But it was. In fact, I think at one hearing, if I read the reports right, the Indians were pretty rough with you.

General PICK. Not with me. I have always gotten along very well with the Indians. I have a lot of good friends up there.

Mr. LEMKE. I believe the report said that when they got up there they said that the Government had broken every promise it had ever made, that they had no confidence in any promise that would be made in the future.

General PICK. I would not know whether they would be talking to me or not.

Mr. LEMKE. That remark was made in your presence, was it not, or the substance of it? I am not trying to quote it.

General PICK. I do not recall exactly what was said, but I know that when the subject was first broached to the council up there that the council did not understand it and did not want to agree to anything up there.

Therefore, I saw the necessity for doing everything possible to explain to them and to furnish them all the information that we had available, and we worked very closely with the Indian Affairs people in order to get that information to the affiliated tribes.

I believe that our dealings with the Indians up to the present time have been very cordial, and I have received, and I am sure that the other people in the Office of the Chief of Engineers have received very cordial treatment from the Indians and from the Bureau of Indian Affairs people who were interested.

We have endeavored to work out a contract which would be an acceptable contract to the three parties, and although I had no part in it that was accomplished here in Washington.

Mr. LEMKE. I may say, General, they were in my office a great deal.

General PICK. Then you are familiar with it.

Mr. LEMKE. I am very familiar with it. The relations between you and them have been very good, and their estimation of you is of the highest. However, you also informed them that the dam was going to be built, that there would be water over their homes. I am not saying it in the exact words, but that was the understanding given to them. They had no other recourse. They knew they had to get out.

I do not think there was a single family there which would voluntarily leave. I know of none. I think I know that reservation very well. I have been up there several times.

General PICK. I am sure you know the reservation.

Mr. LEMKE. I am sure there is not a single family which wants to leave on its own, but I am sure, also, that I did the same thing that you did. I told them it was an accomplished fact, and they would have to leave or be drowned. Under those conditions there is no recourse for them. They have to get off, or else they will be taken off by eminent domain. You would not take them off, but the authorities would take them off.

I am just trying to bring out the fact that it was not a voluntary surrender of their property any more than the white people have surrendered their property. A lot of the white people out there are going to the courts with you.

General PICK. You see, Mr. Lemke, our responsibility is to carry out the directions of the Congress.

Mr. LEMKE. I know.

General PICK. And furnish the services that the Congress directs. I do not consider that I am personally doing anything. I consider that I am carrying out the wishes of Congress in accordance with law.

Mr. LEMKE. I agree with you. Then, it is Congress' responsibility, also, to carry out its part with the Indians and to see that full justice is done. Not only legal justice should be done, but the moral obligations should be met. We should not tear up into scraps of paper the treaties, and to throw the treaties aside as scraps of paper, although the Supreme Court said we could do it. However, in every decision they have warned us to be careful to see that complete justice is done. I am sure that with that you would find no fault, knowing you as I do personally.

General PICK. I am a great believer in everyone getting justice, sir.

Mr. LEMKE. I think that is all that I have at this time, Mr. Chairman.

Mr. MORRIS. I believe I have no questions, General, at this time. I appreciate very much your taking your time to come here and giving us the benefit of your statement.

Mr. FLICKINGER. May I ask a question of General Pick?

Mr. MORRIS. Yes; you may.

Mr. FLICKINGER. General, you made the statement that any additional compensation of the Indians was such that the Indians had the right to go into the Court of Claims, I believe; did you not?

General PICK. That is what I understand. That is the Civil Functions Act of 1948, which provided that, sir.



Mr. FLICKINGER. I call your attention to article I, page 4 of the joint resolution which embodies the contract, wherein the provision is recognized in this contract that not only may they go into the Court of Claims, but they may petition Congress for additional relief legislation, or both. So the Corps of Engineers knew that the Indians desired to endeavor to have this thing settled by Congress, as well as to go into the Court of Claims. That is incorporated into the contract.

General PICK. That is in the contract, but that has not been adopted, as I understand it.

Mr. CASE. That is in the statute.

Mr. FLICKINGER. No; the statute provides that they can go into the Court of Claims.

General PICK. I was quoting from the statute.

Mr. FLICKINGER. We provide, however, in the contract which is signed by your predecessor with reference to the Indians coming before Congress to settle this damage, in addition to the provisions providing in the contract recognition of the intangibles which were not, insofar as the Indians were concerned, settled in the contract.

Of course, the act itself specifically indicates that this damage—this \$5,000,000—was not probably in itself sufficient to take care of the losses that the Indians would sustain.

General PICK. That is correct, but I was quoting from the law, sir.

Mr. FLICKINGER. I just wanted to point out that it is in the contract.

General PICK. It is provided for in the contract and in article I.

Mr. FLICKINGER. Yes.

General PICK. That is what the hearing is being held on now, as I understand it, sir. We endorsed the contract.

Mr. LEMKE. The contract has been endorsed by you and the Department and the Indians subject, however, to that particular paragraph.

General PICK. That is a part of it.

Mr. LEMKE. It is a part of it.

General PICK. Yes.

Mr. LEMKE. But it has not been ratified by Congress.

General PICK. No, sir. I was merely quoting from the law. Are there any other questions?

Mr. MORRIS. I think that was a very wise provision in the contract. At least, it seems to me it was well to put that into the contract. I have had a lot of experience in matters of condemnation as a lawyer and as a judge for a number of years, and quite often values are overlooked by all parties, even those who are interested, and especially is that true, in my judgment, with the removal of a tribe of Indians, where the treaty is admittedly violated, which might involve some elements of damage that no one could see at the time.

In other words, the subject matter with which you were dealing was of such a nature that that provision was, in my judgment, a very wise and proper provision in the contract.

So, I am glad to know that you had the foresight to put such a provision in the contract. I think you were acting not only within the scope of your authority, but I think with wisdom, and certainly with the thought in your mind, evidently, of justice, when you agreed to such a provision.

General PICK. We felt that it was the intention of Congress to settle this matter; and, if it were not settled within the limitations of the contract, they provided other ways of settling it, and that was when they put in there the authority to enter the Court of Claims.

The contract has been worked out. It has been signed and agreed to. We are in hopes that it will receive favorable consideration by the Congress when it is formally considered.

Mr. LEMKE. That should be done as rapidly as possible because of the uncertainty, as it is at present. Am I right in that?

General PICK. I think so; yes.

Mr. MORRIS. That certainly is the purpose that this subcommittee has in mind. We hope to make as full and fair an investigation of this matter as we possibly can, and we hope to move this matter along as expeditiously as we can.

General PICK. Yes.

Mr. MORRIS. We shall try to accomplish that objective.

General PICK. Yes, sir.

Mr. MORRIS. Thank you a lot, General.

General PICK. Thank you very much, sir.

Mr. MORRIS. I believe that we might now go into questions with Mr. Provinse. Congressman Lemke, do you have some questions to ask?

Mr. LEMKE. Yes; I have a few questions. One question especially brought out by Congressman D'Ewart is about nontaxability.

Suppose that some lands are bought outside the present reservation, or exchanged. Just what would be your limitation there?

Suppose that one of these Indians would go into the city of Minot and buy a lot. I think Mr. D'Ewart is right when he says that he will run into a lot of headaches.

Have you any suggestions as to how to eliminate that? Would you say "with the consent of the county commissioners"? Would you have any objection to that?

I wish that Mr. Case would also listen in, because it is a serious question we will have to meet.

Mr. PROVINSE. May I go back and distinguish two different types of things here?

Mr. LEMKE. Yes; I wish you would. That is why I am bringing it up.

Mr. PROVINSE. On page 70 of the bill, section 3, there is the authorization for the \$3,000,000 for the land-adjustment funds.

If you will look at line 7, you will see that all funds to be expended under that authorization will be for lands located in the Fort Berthold Reservation. That is page 70, line 7.

In other words, the expenditure of money we would get for the land adjustment would be for blocking up lands within the reservation, so that Congressman D'Ewart's query does not go to how we might spend the additional \$3,000,000. It goes back wholly to what the Indians, themselves, would do with their money that they might get under their contracts.

That is contained in article VII, page 60.

Now it is true that, under the terms of article VII, land purchased by the Indians with the moneys that they would get for the appraised value of the lands which are taken would be used to acquire property in the trust status. That is a problem that has been before the Depart-



ment for a good many years, as to whether or not the trust status follows the cash that comes from land.

Within the last 4 or 5 years a policy has been adopted which will not follow the funds outside of a particular State in which the land originally was located, and it also will not follow money to an urban area. That is, it will not take the trust status into an urban area, so that while we did, prior to 1932, buy some lands in some cities—and there are instances even of lands in Los Angeles and Seattle being purchased in a trust status and tax-exempt—that has been abolished as a policy of the Department.

I think we would prefer to have that discretion still within the Secretary. I know that one of the problems that is bothering Congressman D'Ewart is the situation at Lodge Grass, Mont. Lodge Grass is a town site within the external boundaries of the reservation. It is land wholly within the reservation boundaries.

We face this problem in terms of trying to make some adjustments for some of the older Indians, particularly: They should be enabled to buy a lot in town where their adjustment to living on social-security benefits, or on relief or something like that, can be worked out. Still we know that if their land is put on the tax rolls in these little towns, as to the house and lot, that they are going to lose those in a very short time. So, in an area such as Lodge Grass, where we have a number of social-security cases, they can get much better accommodations living in town than if they are widely dispersed over the reservation, and we would prefer that their land not be taxed because most of them do not understand the taxing process and would lose their land.

At the present time we have that problem before the tribe, to see whether or not the tribe itself will not undertake to do something about maintaining the tax-free status for the purpose of taking care of these older people when they move into these small towns.

With regard to land that might be bought contiguous to the reservation and later be incorporated into the reservation as a part of the Fort Berthold Reservation, I think the tax-free exemption should apply.

Mr. LEMKE. I agree with you except that you have this difficulty: I presume, as far as article VII goes, we cannot change that.

Mr. PROVINSE. That is within the contract. It seems to me that is a part of the compensation.

Mr. LEMKE. We cannot change that.

Mr. PROVINSE. That is right.

Mr. LEMKE. With respect to the \$3,000,000, you say that is intended for within the reservation anyway.

Mr. PROVINSE. That is intended for within the reservation.

Mr. LEMKE. So the question of what to do with buying outside would be rather a question for future adjustment; would it not?

Mr. PROVINSE. I think so, and I think our policy is gradually becoming defined. I think over a period of time the Indians can take their money and move to Seattle or Butte, Mont., or to Minneapolis, and that they should be expected to pay taxes on the land that they buy there.

Mr. LEMKE. The reason I brought it up is because I felt we had to have an explanation.

Mr. HARPER. Mr. Chairman, may I throw some additional light as to the probable effect?

About a year ago the investigation staff—the Missouri Basin Investigation Staff—conducted a house-to-house survey of some 300 families who are affected by the project.

Two hundred and eighty-nine of them living within the taking area, and 11 so close that they will also have to move, made up the total of the 300 families. We asked them where they wanted to go, and we kept ourselves out of their answers.

Two hundred and fifty families of the 300 Indian families said that they plan to stay on the reservation. Thirty-one families said that they plan tentatively to leave the reservation altogether, and 19 were undecided.

Now, of the families that are going off the reservation, 5 are going to other reservations, joining relatives, and 13 families plan to move to Montana and South Dakota. Five families plan to go to various towns in North Dakota, and eight families plan to go to various rural communities in North Dakota.

In other words, so far as North Dakota is concerned, there are a total of 13 families which we are probably talking about, in applying the effects of articles VII and VIII of the contract. I am personally inclined to think that number will be even smaller when we come to the time of removal.

Mr. MORRIS. Can you tell me approximately how many families there are on the entire reservation? Do you have that information?

Mr. HARPER. Three hundred and fifty-eight households.

Mr. MORRIS. Three hundred and fifty-eight?

Mr. HARPER. Yes, sir.

Mr. MORRIS. What is the total number of Indians on the reservation?

Mr. HARPER. The enrollment is about 2,200, and about 1,900 or 2,000 live on the reservation.

Mr. MORRIS. I think it is in the record in other places, and I am becoming pretty familiar with this picture as the testimony unfolds, but will you tell me just for my information what tribes are involved here? What are the tribes?

Mr. HARPER. You mean the three tribes?

Mr. MORRIS. Yes.

Mr. HARPER. The tribes are the Mandan, the Gros Ventre. What does it mean in French?

Mr. PROVINSE. That is the remnant of the old Hidatsa.

Mr. HARPER. And the Arikara.

Mr. MORRIS. Do they come from or are they descendants of some of the larger nations or tribes like the Sioux or the Wyandottes or any particular group of that kind; or are those names names they have had traditionally for many, many years? Do you know about that?

Mr. PROVINSE. If I may inject here, they are names that the tribes had for a great many years. The town of Mandan is named after the Mandan Indians.

Mr. MORRIS. The reason I ask that question is this: I am familiar with the names of many Indian tribes all over the Nation, but every once in a while I run into some new names I have not known about before.



Mr. PROVINSE. These three groups in the Missouri Basin were the most sedentary of the groups there. They were not the nomadic groups similar to the Sioux groups.

Mr. MORRIS. I see. I see one of our Indian friends standing here. Would you like to make a statement, sir?

Mr. SYLVESTER. My name is Carl Sylvester, Mr. Chairman. I am a delegate chosen to accompany the tribal council.

I want to clarify that name business of our tribe.

Mr. MORRIS. All right.

Mr. SYLVESTER. As Mr. Harper gave the name, the Mandan is correct. The Arikaras adopted that term for themselves, but the Gros Ventre, named the Gros Ventre of the Three Affiliated Tribes, seems to have been a misnomer from the beginning.

The real Gros Ventre, or the Pot Bellied, or whatever you call it in French, lived way out at Fort Belknap, Mont., and we seemed to have been mixed up with that tribe.

Our name in Indian is Hidatsa, or however you want to spell it, or Minatari, as the Mandans call us. Either one is correct, but the Government of the United States misconstrued the name and it stuck to us to this day. We tried to change it, but with no success.

The so-called Gros Ventre and Mandan Tribes were originally of the Sioux stock. In their linguistic stock we belong to the Sioux Nation. That is a great stock composed of different nations.

Now, I am not competent to say, but from 13 to 17 different nations or tribes are alive today of that stock, or something like that. The Mandans, the so-called Gros Ventre, the Assinoboine, the Winnebago, the Omaha, the Quapaw, to which Hon. Charles Curtis belonged, were all one stock.

History says we were over here in Virginia and in the Carolinas originally. We migrated by slow migration until we got west, after perhaps a thousand years. That is how we originated. We belong to the Sioux in stock, and we have settled in that territory of the Missouri River for hundreds of years.

The Mandans were the first, and the Gros Ventre migrated toward Canada, and many years afterward we came back.

I thank you.

Mr. CASE. Mr. Chairman, I would like to remind Mr. Sylvester that he has not identified the Arikara. They are Caddostock.

Mr. SYLVESTER. I did not say anything about the Arikara. They came from down Southwest somewhere. They belonged to what they call the Pueblo stock. They belonged to the Caddo stock, and four of them are living, the Arikaras, Pawnees, Caddos, and Wichitas. Those are the four allied nations composing the stock to which the Arikaras belonged.

I was not talking about them, because these Arikaras joined us from somewhere in Nebraska about 1837, and they have been with us ever since. By Presidential proclamation, as I read about 1880, the President said that they should belong to the Fort Berthold Reservation and be called the Three Affiliated Tribes. That name became official until the Indian Reorganization Act of 1934.

I thank you.

Mr. MORRIS. Thank you very much for that statement. It is very interesting. Not that it is so pertinent to this inquiry, but it is of

great interest to me. We have the Caddos, of course, out my way, and the Pawnees, as you mentioned. They were probably some of the same people, originally.

Are there any further questions, Mr. Lemke?

Mr. LEMKE. I do not think so. I wish to make an observation.

I have a newspaper clipping here which shows what some of the white people are asking for similar land, and I notice that there is a 13-acre piece where they have asked \$68 per acre. All the way through the amounts that the farmers are asking for there are at least nearly twice what the Army offers them, and sometimes they are four times as much as the Army offers them.

It may be that there is an exaggeration as to what the farmer wants, but I find that the court in the decisions that it has made in nearly every case has increased the Army figure considerably. In some cases it has been all the way from two-thirds up.

You have that by condemnation proceedings in court.

I think that is all I have at this time, Mr. Chairman.

Mr. PROVINSE. Mr. Chairman, Mr. D'Ewart, during one of the sessions, raised a question, also, about whether or not this joint resolution would finally complete this negotiation, and I think attention should be called to section 9 which definitely states that this shall be in complete and final settlement of all the rights, interests, and claims whatsoever of the Three Affiliated Tribes, by reason of the construction of the Garrison Dam and Reservoir project.

Mr. LEMKE. I may state that it is well to bring that out because Mr. D'Ewart has told me that he would absolutely not feel that it would be fair if the thing were not finally settled now.

May I ask Mr. Case whether he has considered the amendments the department has offered? I think most of them are just technical amendments.

Mr. CASE. Mr. Lemke, the amendments have been considered by the tribal council, and the tribal council is here. It went over these amendments before the report was presented to the House, and they agreed to the amendments as offered by the Department of the Interior.

Mr. LEMKE. Personally, I feel the amendments improve the bill.

Mr. CASE. I think so. Unquestionably, some of them will clarify it.

The tribal council is entirely agreeable to the rewriting of section 5, which you have right before you there, which is the electrical power provision.

I would like to explain that, since the Department has not touched upon it. I would like to invite your attention to the fact that the draft of the bill calls for power at not to exceed 2 mills per kilowatt-hour.

In asking this amendment the Department told us that they did not wish to have a statutory limitation on their power.

This power from Garrison Dam, when built, will be part of the great pool of power included in the entire Missouri River Valley development. As such, if the Congress hobbled the Interior Department with a statutory limitation to one, it might set a very bad precedent. We could understand, and we agreed to the rewrite of the power provision, which does leave the question of rates entirely in the hands of the operating element, whatever it is.

We do get, however, what I might refer to as the most-favored-customer clause. We will get power at the low rate of the other wholesale customers.



Mr. MORRIS. I like that provision much better than fixing a stated rate.

Mr. CASE. We agreed.

Mr. MORRIS. Because we do not know in the future just what the rates may be. They may be lowered, or they may be raised. We are all hoping that they may be lowered from time to time, as production of electricity is in greater quantities, and it might be that sometime in the foreseeable future this rate which appears to be a low rate now would be a high rate.

Mr. CASE. It might be.

Mr. MORRIS. If we fixed it by congressional mandate and law it would have to remain that until it were changed. I think that is a very wise amendment, myself.

Mr. CASE. The Three Tribes, under this provision, become customers for the power after it is available, and we are simply getting reserved seats, and we are getting them in advance. We are in no different status from other users of the power.

Mr. MORRIS. Now, at this point in the record I would like to present a letter which was left with the committee by Mr. James Baker, where he has made a statement here and asks that it be filed and become a part of the record.

He says:

My name is James Baker, a member of the Three Affiliated Tribes of North Dakota. I am an official delegate appointed by the Tribal Business Council of the Fort Berthold Indian Reservation.

I desire to speak briefly on the timbered areas of the Fort Berthold Indian Reservation. Much timber grows along the Missouri River in the State of North Dakota. All of the valuable timber will be removed from within the Indian Reservation before it is flooded. Much of it will be wasted.

The forested area of our reservation has been of great value to us. We depended on timber products to construct our dwellings and barns. The rails are used in making enclosures for our stock. We use many posts in making fences for our pastures and fields. Our forested areas and standing timber affords shelter for our livestock.

In the near future we will be forced to leave our homes. We will be obliged to move into places where there will be no building material, and there will be no wood for fuel.

The Government of the United States promised our forefathers that our treaty lands and natural resources would be ours forever. It is now the will of Uncle Sam to deprive us of the use of that which is ours.

My request is a favorable action on House Joint Resolution 33 and Senate Joint Resolution 11. I thank you.

Mr. PROVINSE. Mr. Chairman, may I say something else?

Mr. MORRIS. Yes, sir.

Mr. PROVINSE. In connection with section 2 of the resolution, where the sum of \$3,000,000 is asked for the establishment of a land readjustment fund, I would like to place before you for insertion in the record a report which our Missouri Basin investigation staff has made called, Land Consolidation Problems on the Fort Berthold Indian Reservation Arising From the Garrison Project.

This goes into much more detail on the problems we face in making the land-adjustment program, with a number of maps.

Additional copies can be had for the members of the committee, if you wish them, but I think this would be useful in the record.

Mr. MORRIS. All right. Let that be filed and become a part of the record at this time.

Mr. LEMKE. I was wondering, Mr. Chairman, whether it should not be printed, because this record will go over to the Senate side.

There may be some question about some of these things, and perhaps it would be better if it could be put into the printed record. This is an important case, and one of the most important coming before this committee.

Mr. MORRIS. The document will be printed in the record.

(The document is as follows:)

LAND CONSOLIDATION PROBLEMS OF THE FORT BERTHOLD INDIAN RESERVATION  
ARISING FROM THE GARRISON PROJECT

(Missouri River Basin investigations staff, region No. 2, Bureau of Indian Affairs, Billings, Mont., April 20, 1948; revised, November 1, 1948)

FOREWORD

The Garrison Dam and Reservoir project on the Missouri River involves the clearance of 173,000 acres of valley land running through the Fort Berthold Reservation, N. Dak. This land taking will necessitate the removal of nearly 300 Indian families. They will lose their homes and farms. Eighty-three percent of these families have expressed a definite preference to resettle on the residual segments of the reservation.

This map folio has been prepared to present graphically the problems facing the Indians. It deals especially with the problem of consolidating the Indians' remaining individually allotted lands into practical units of use.

Plates 1 to 3, inclusive, provide a general summary of the effects of the Garrison taking of Indian lands on the existing reservation. Plates 4 to 9, inclusive, reveal the elements of the complex problem of readjusting ownership of land on the residual reservation.

Special legislation has been proposed to the Congress to establish a land readjustment fund to assist the Indians in effecting a consolidation of their lands. This folio presents the basic reasons for the need of this assistance.

Originally issued on April 20, 1948, this publication has been thoroughly revised to include the latest available statistical data and other information. The maps herein were prepared by Rudolph Cvelbar, Jr., and T. E. DeJarnett, draftsmen of the Indian Bureau's Missouri River Basin investigations staff.

ALLAN G. HARPER,  
*Assistant Regional Director.*

PLATE NO. 1.<sup>1</sup> FROM THE TREATY OF FORT LARAMIE TO THE GARRISON TAKING  
(1851-1948)

The map opposite telescopes the entire land history of the Three Affiliated Tribes from the establishment of the Fort Berthold Reservation in 1851 to the impending Garrison Reservoir taking.

The original reservation, totaling about 12½ million acres, was located wholly south and west of the Missouri River. By successive statutes and Executive orders, this land base was progressively reduced. But it was also extended north and east of the river. This area of about 1½ million acres was also subsequently reduced.

The large reductions in the area of the reservation took place in 1870, 1880, 1891, and 1910 through the opening of that part of the then existing reservation north and east of the Missouri River to white settlement.

The gross area of the Fort Berthold Reservation today is 643,368 acres, of which 60,085 acres are in white ownership.

After the Garrison taking of 146,259 acres (not including 6,266 acres of Indian claimed accretion along the Missouri River), Indian holdings of all kinds will total 437,024 acres.

In the course of settling the West and the assimilation of the Indians, it is to be expected that the vast original reservation—set aside on the basis of the Indians' hunting economy—should have been reduced. It is demonstrable, however, that the land resources finally left to the Indians after the Garrison taking will require a comprehensive reconsolidation into usable units, if their removal from the bottom lands is to be successfully accomplished.

<sup>1</sup> The illustrations mentioned are on file with the committee.



PLATE NO. 2. PRINCIPAL EFFECTS OF THE GARRISON PROJECT ON THE FORT BERTHOLD RESERVATION AND ITS PEOPLE

The flooding of the Garrison Reservoir site will submerge the best lands of the Fort Berthold Indians and the majority of their home sites. The residual reservation will be left in five parts, each separated from the other by water. The sheltered and timbered bottom lands will be taken. More concretely, the facts are:

	<i>Acres</i>
Indian-owned (surveyed)-----	146, 259
Indian-owned (accretion)-----	6, 266
Owned by non-Indians-----	20, 805
Total-----	173, 330

*Segmentation of residual reservation.*—The residual reservation will be segmented into five parts through the flooding of the Missouri River, the Little Missouri River, Lucky Mound Creek, and the Shell Creek Valley. The unity, organization, and communications of the people will be virtually destroyed.

*Removal of Indian population.*—Of the 357 Indian homes on the Fort Berthold Reservation, 289 are located within the taking area for the Garrison Reservoir. About 1,700 people will have to remove their homes. Of the 289 families which have to move, 240 (or 83 percent) wish to remain on the residual reservation, largely in the western, southern, and eastern segments.

*Implications of losing bottom lands.*—The Garrison Reservoir takes all the Indians' bottom lands along the Missouri River. Deprived not only of their homes and the base lands for their cattle operations, they will also lose nearly all their standing timber—and therewith their free supply of fuel, fence posts, house logs, and habitat for game. Developed water supplies will be lost. From their presently sheltered location, the Indians must move to the uplands where they must make extensive readjustments in their way of living and especially in their method of livestock management. A shortage of protected winter range and the greater cost of developing water are two problems which they must face.

*Destruction of existing social facilities.*—All of the Government's facilities for the Indians' health, educational, agricultural, and administrative service, centered at Elbowoods and in outlying communities, are located in the taking area. It will be difficult to reconstruct these facilities and restore services in terms of the segmented reservation.

PLATE NO. 3. FROM THE RIVER VALLEY TO THE UPLANDS: THE PROBLEM OF REMOVAL.

The reservation lands used by Indians are indicated by the yellow coloring. Note the close correlation with the Garrison taking line.

1. Although some Indian acreage within the taking area is being used by non-Indians, most of it is used by Indians.

2. The areas of Indian use overflow the taking line to include adjacent areas.

3. The non-Indian use areas north and east of the Missouri River are largely under agricultural leases; those west and south are under grazing permits.

*Effect of taking on livestock economy.*—The Fort Berthold Indians have made their greatest strides toward economic self-sufficiency through the production of beef cattle, based on use of the bottom lands and adjacent uplands. It is precisely these lands which are taken or served for Garrison Reservoir.

*Problems of removing cattle industry to uplands.*—The reestablishment of the cattle industry on the residual reservation is faced with these difficulties:

1. Lack of shelter and winter range which will force a radical change and increased cost in grazing and feeding practices.

2. Lack of developed water supplies.

3. Lack of roads and trails, especially west and south of the Missouri River, and the severance of communications between the two segments formed by the flooding of the Little Missouri River.

4. The allotment and fractionization of individually owned Indian lands on the residual reservation, together with white ownership of key tracts in the grazing units. The succeeding plates in the folio analyze this problem.

PLATE NO. 4. READJUSTMENT OF LAND OWNERSHIP, No. 1: THE ALLOTMENT PATTERN

The residual Fort Berthold Reservation is marked by three outstanding ownership characteristics:

1. There are no tribal lands of any consequence.

2. All of the residual lands are allotted in severalty.
2. The Indians' allotted lands are interspersed with some 44,000 acres of white-owned lands.

*Objective of readjusting ownership on residual reservation.*—To reestablish the Indians' livestock industry on the residual reservation, ranch lay-outs of approximately 2,500 acres must be assembled to provide home sites, ranch headquarters, and sufficient grazing land. Protected winter range in individual ownership is important.

*Ownership of typical township.*—The existing ownership pattern on the residual reservation is illustrated by plate No. 4. All of the land is classified for grazing and no Indians live within the township. It forms a part of a large grazing unit of 108,000 acres, taken out by a group of eight white livestockmen who pool their use of the area.

This township could be organized into nine family-size ranches, which is the type for use for which the Fort Berthold people have expressed a preference. It is presently subdivided into 91 allotments of diverse and scattered Indian ownership, which makes individual use impractical. Two alternatives appear: (1) a program of purchase and exchange to create individually owned ranch units, or (2) a program of purchase and exchange to create consolidated blocks of tribal lands to be used under permit by individual Indians.

PLATE NO. 5. READJUSTMENT OF LAND OWNERSHIP, NO. 2: THE INHERITANCE PROBLEM

Physical partition of allotments, at the death of original allottees, has nearly always proved economically undesirable and an obstacle to Indian use of the land. The inheritance and reinheritance of trust allotments have tended generally to produce the result which is illustrated by plate No. 5.

Not only was the land base of the residual Fort Berthold Reservation allotted in tracts which were too small for economic cattle operations, but it is also burdened now with minute inherited subdivision of these allotments.

A twofold process is constantly operating. With the rare exception of estates with single heirs, all allotments and inherited interests are being continually redivided with arithmetic certainty into numerous ownerships. Nearly all members of the tribe, after the first generation, find their land holdings represented by collections of geographically scattered inherited interests.

Removal to the residual reservation forces on members of the tribes the necessity of consolidating their allotted and inherited interests to provide themselves with tracts sufficiently large for home sites, farms, and ranches. It appears that the Indians prefer to receive new trust patents for their consolidated holdings.

Will such newly trust patented lands again be fractionized? Possibly, but there are three favorable factors operating against that result:

1. Lands would be in economic units on a family basis, offering the opportunity, heretofore absent, of Indian operation. Full advantage of this opportunity has been taken on other reservations where consolidations have been made.
2. As going concerns, the opportunity would exist to transfer operation of the farms or ranches to family members who would take over on the death or retirement of the family head.
3. Economic units would produce income sufficient to pay off the inherited interests of nonresident heirs. Some resident heirs could purchase unused economic units in estate status.

PLATE NO. 6. READJUSTMENT OF LAND OWNERSHIP, NO. 3: THE PROBLEM OF A TYPICAL FAMILY

The Fort Berthold family whose land holdings are platted on the map opposite consists of five members. Its total of allotted land and heirship interests aggregates 1,036 acres.

Inside the taking area, the family has one allotment of 160 acres and five heirship interests totaling 202 acres. In all, it has 362 acres which will be taken.

Outside the taking area, the family has four allotments totaling 600 acres and six heirship interests totaling 74 acres. In all, it will have 674 acres left on the residual reservation.

This family will find these holdings on the residual reservation, if consolidated, sufficient to provide for a home site, garden, a few chickens, and a winter feeding base for a small herd of cattle. Cash proceeds from the taking of its



362 acres for Garrison Reservoir could be used to acquire additional lands or be used to defray the expense of setting up the family in its new home.

Under the pending contract the family's moving expenses would be defrayed from the \$5,105,625 appropriation. It would also be assisted in salvaging and moving its old home and improvements, if that were feasible and desired.

PLATE NO. 7. READJUSTMENT OF LANDOWNERSHIP, No. 4: A FAMILY WITH LARGE LANDHOLDINGS

Probably not more than 5 to 10 percent of the Fort Berthold Indians own holdings as large in the aggregate as those of the Mahto family. Yet the family is "land poor" in the sense that the full income possibilities of its lands cannot be realized because of their scattered, fractionized status.

Consolidation of the family's holdings and interests outside the reservoir R/W would give it a unit of 2,218 acres. This base could be augmented by the purchase of additional land from the proceeds of the sale of 1,326 acres to be taken for the reservoir.

With its assets the Mahto family can make a good readjustment, but the help provided through the proposed land readjustment fund will be indispensable. There is no way in which the family can effect consolidation of its holdings except through a reservation-wide program of land readjustment and consolidation.

PLATE NO. 8. READJUSTMENT OF LANDOWNERSHIP, No. 5: THE HOLDINGS OF THE NONRESIDENTS

The landholdings of a typical nonresident Indian family are illustrated by plate No. 8.

In the Garrison taking, 416.50 acres will be bought by the War Department. Under the terms of the pending contract the nonresidents would receive payment in cash.

The family will still own an aggregate of 856.30 acres on the residual reservation. As there is need for this land by resident members of the tribe, means for its purchase should be made available.

Two sources of funds for this purpose are: (1) proceeds derived by allottees and heirs from the Garrison taking and (2) the proposed land readjustment fund.

PLATE NO. 9. READJUSTMENT OF LANDOWNERSHIP, No. 6: PURCHASE OF ALIENATED LAND

The two segments of the Fort Berthold Reservation, shown on plate No. 9, are of the utmost (and perhaps controlling) importance to the Indians' removal:

1. The land in these segments, west and south of the Missouri River, is predominantly grazing in character.

2. It is to these segments that a majority of the Fort Berthold Indians will remove.

As shown in plate No. 3, the bulk of these lands is leased to non-Indians at the present time. It is obvious that one of the first effects of the Indians' removal will be—and necessarily—the progressive return of these permitted lands for grazing Indian-owned cattle.

Over 14,000 acres of land in these two segments are presently alienated from Indian to white ownership. These lands would not be of any use to their owners if the Indians withdrew their grazing permits.

The purchase of these alienated lands would—

1. Probably be welcome by their present owners.

2. Provide the land readjustment fund with a land pool from which to begin operations of exchange, purchase, and sale in order to block up economic ranch units for individual Indians.

3. Greatly simplify administration of the range.

Mr. LEMKE. Mr. Chairman, I now move that the amendments offered by the Department of the Interior, as shown on pages 8 and 9 of the Committee Document No. 1, be incorporated into the bill.

Mr. MORRIS. I second the motion.

It has been moved and seconded that the amendments, as proposed by the Bureau of Indian Affairs, Secretary of the Interior, as set out

on pages 8 and 9 of the report, in the form of a letter from the Secretary of the Interior, be incorporated in the bill.

All in favor of the motion let it be known by saying "aye."

(Response of "aye.")

Mr. MORRIS. Those opposed "no."

(No response.)

Mr. MORRIS. The "ayes" have it and the amendments are so adopted and incorporated in the bill.

Off the record.

(Discussion off the record.)

Mr. MORRIS. I think we can report this bill out tomorrow. I hope we can. I know I am ready to report it out. I think it is a good bill, and I want to move forward with it.

Mr. PROVINSE. I am sure, Mr. Chairman, that this group here appreciates your kindness to them since they have been here.

Mr. MORRIS. Off the record.

(Discussion off the record.)

Mr. MORRIS. The subcommittee will stand adjourned until 9:30 tomorrow morning.

(Thereupon, at 11:50 a. m., Monday, May 2, 1949, an adjournment was taken until 9:30 a. m., Tuesday, May 3, 1949.)



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 RESERVA-  
TION, N. DAK., AND FOR OTHER RELATED PURPOSES

TUESDAY, MAY 3, 1949

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE OF INDIAN AFFAIRS  
OF THE COMMITTEE OF PUBLIC LANDS,  
*Washington, D. C.*

The subcommittee met, pursuant to adjournment, at 9:30 a. m. in the anteroom of the Committee Room of the House Committee on Public Lands, the Honorable Toby Morris (chairman of the subcommittee), presiding.

Mr. MORRIS. Gentlemen, the subcommittee will come to order.

We will proceed with further consideration of House Joint Resolution 33 at this time.

Mr. MURDOCK. Please tell me what happened to this bill last year.

Mr. D'EWART. I have the testimony right here, and I have some points to raise brought out by this testimony.

The situation is this: the contract was offered to the joint committee of the House and Senate, and it was determined that the funds involved in the contract were only a down payment, and were not final settlement.

I can read you the testimony here, which I sent over for. The Senate, therefore, refused to accept it and returned it to the Indians and the Army engineers and Mr. Case with instructions that they try to reach an agreement that would be final.

Senator WATKINS. What I am trying to point out to you gentlemen is that after the explanation given by the general here you are still unsettled. You do not have a contract except that at some future time you are going, by some other means, to endeavor to find out what you have to pay. In other words, it is not a complete contract.

It is not a meeting of the minds on important matters.

I can go on and read several pages of testimony like that.

They have sent it back, and have brought in a considerable addition in payment, and three or four amendments.

Now, I have an amendment or two, and the question in my mind is this: Is it a final settlement? If it is not, I am not for the resolution. I think it should be a final settlement.

Mr. LEMKE. There is not any question.

Mr. MORRIS. I think it is. Look at section 9.

Mr. LEMKE. The bill states, on page 74:

The foregoing conditions and requirements, and the funds made available and those authorized to be appropriated in this Joint Resolution, when appropriated, shall be in complete and final settlement of all the rights, interests, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States, by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

Mr. MORRIS. We ran across that yesterday and discussed it yesterday.

Mr. D'EWART. Here is what Senator Watkins says [reading]:

Senator WATKINS. That does not make any difference. A majority of any community cannot take my property. If they were 100 percent and I was the only one left I would still have the right to sell my own property. As to individual holdings under this treaty which are allotted and some day will ripen into titles in fee, if they go with it they cannot be taken by a tribal group agreeing to a contract.

Mr. LEMKE. That is covered. If they are not willing to accept it by another provision in the original agreement they can go into the condemnation proceedings.

Mr. D'EWART. That is what we are trying to prevent.

Mr. LEMKE. But you cannot do so.

Mr. D'EWART. I would call your attention to the fact that that is in the bill, but it is not accepted by the Tribal Council. It is not accepted by a majority of the Indians. It is not accepted even by the individuals.

What they did accept is this:

The said contract shall be submitted to the Congress on or before the first day of June 1948; provided, however, that notwithstanding said contract or the provisions of this act the said Three Affiliated Tribes may bring suit in the Court of Claims as provided in section 24 of this act of August 13, 1946, on account of additional damage, if any, alleged to have been sustained.

That is what they signed and agreed to. They did not agree and sign to this order.

Mr. LEMKE. To this addition?

Mr. D'EWART. To this addition.

I have provided an amendment. I do not know whether it will correct it or not. I will leave it to the attorneys on the committee to decide.

On page 74, line 20:

*Provided*, That no funds authorized in this Act shall be made available to the Three Affiliated Tribes or their members until the Secretary of the Interior has received an appropriate resolution adopted by the Tribal Council and approved by over one-half of the members of the said tribes accepting payments authorized by this Act as complete and final settlement of all the rights, interests, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

Mr. MORRIS. Let me see that amendment, Mr. D'Ewart, please.

Mr. D'EWART. What we are trying to get away from is future lawsuits.

Mr. MORRIS. I understand.

Mr. D'EWART. I think you are all agreed on that.

Mr. WHITE. Future claims.

Mr. LEMKE. I want a final settlement.



Mr. D'EWART. All the testimony a year ago indicates we are not doing it. That is what I am trying to bring out here.

Mr. MORRIS. Off the record.

(Discussion off the record.)

Mr. MORRIS. Gentlemen, let us proceed.

Will you offer the amendment, Mr. D'Ewart?

Mr. D'EWART. I move that on page 74, line 20, that the comma be stricken and a semicolon inserted and the following words added:

*Provided*, No funds authorized in this Act shall be made available to the Three Affiliated Tribes or their members until the Secretary of the Interior has received an appropriate resolution adopted by the Tribal Council and approved by a majority of the members of said tribes accepting payments authorized by this Act as complete and final settlement of all rights, interests, and claims whatsoever of the Three Affiliated Tribes or members thereof against the United States by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

Mr. BARRETT. I would like to ask somebody this question: What authority does the tribe have to pass a resolution binding on the individual members as to their own patented land? What authority do they have with regard to an individual member's allotted lands?

I can see what right the tribe has as to tribal lands, but what right has the tribe over the land of the individual members of the tribe? After all, they are the same as anybody else.

Mr. LEMKE. That is true, but that was disposed of in the individual contract that has been signed, whereby those individual members are given the right expressly, if they are not satisfied with the settlement, that they can go into the Court of Claims or into court and get redress.

Mr. BARRETT. But they are not going to get any money here, the way that amendment is.

Mr. LEMKE. Well, yes; if a majority agree, they will get some money.

Mr. BARRETT. Read that amendment.

Mr. D'EWART (reading):

*Provided*, No funds authorized in this Act shall be made available to the Three Affiliated Tribes or their members until the Secretary of the Interior has received an appropriate resolution adopted by the Tribal Council and approved by a majority of the members of said tribes accepting payments authorized by this Act as complete and final settlement of all rights, interests, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

Mr. BARRETT. What do you mean by the "Tribes and the members thereof"? What lands are you speaking of there?

Mr. D'EWART. They insisted in the original acceptance of this original contract that it not only be accepted by the tribal council but by a majority. I have used that method, by a majority of the tribe. A majority of the tribe had to approve it.

Mr. BARRETT. You are talking about tribal lands?

Mr. D'EWART. It is supposed to be for allotted lands as well as tribal lands.

Mr. BARRETT. The question I have in my mind is what authority the tribe has over the allotted lands.

Mr. D'EWART. "That a contract between the United States and said Three Affiliated Tribes shall be negotiated and approved by a majority of the adult members of said tribes."

Mr. BARRETT. That does not apply to allotted lands. That affects only tribal lands.

I think you could go so far as to say that a majority of the adult members of the tribe can consent to the sale of the tribal lands. If you are going further than that, and want to say, "We are going to bind the individual ownerships by an action of the tribe," I do not believe that the tribe has anything to do with the lands of individual Indians of the tribe.

Mr. D'EWART. Senator Watkins said:

That does not make any difference. A majority of any community cannot take my property. If they were 100 percent and I was the only one left, I would still have the right to sell my own property. As to individual holdings under the treaty which are allotted and some day will ripen into titles in fee, if they go on with it, they cannot be taken by any tribal group agreeing to a contract.

Mr. BARRETT. I agree with that.

Mr. MORRIS. I think you are right about that; but, from a practical standpoint, if these parties who own individual allotments actually receive the money, that will settle it. This is the only practical way to settle it.

There is this one thought which I am not certain about. Title to this Indian land is usually—and I take it in this case also—in the Government of the United States. Usually the bare title is held in the Government in trust for the Indians, and the approval is by the Bureau of Indian Affairs and the Department of the Interior and the Congress and the tribal council.

As long as the courts would say it is just and fair, it is in the nature of a condemnation proceeding which would actually settle the matter. I am not sure about that.

I am sure of this fact: If the individual allottee accepts money for it, assuming that he is a competent person, that will settle it.

Mr. BARRETT. There is no question about that.

Mr. LEMKE. Let me ask you this question: The Government, under the Supreme Court decisions, can break its treaties with the tribes as a whole. I am satisfied that it can break any agreement with the allottee if it wishes.

Mr. MORRIS. Very probably, because it is not like the ordinary land. It is a gift or a grant.

Mr. LEMKE. I will admit that they cannot do anything with a fellow who has a patent.

Mr. WHITE. There is another way of reaching this situation. If the receipt is signed for the money by the Indian, and carries that provision that this settles all claims in the future, it would certainly cover it, I believe. That is the way it is generally handled, in the receipt itself.

Mr. LEMKE. The Department would put that into the receipt.

Mr. BARRETT. How many individual ownerships are there?

Mr. WHITE. I think we could depend upon the Bureau of Indian Affairs to take care of that.

Mr. MORRIS. I do not think we need to worry about that.

Mr. WHITE. We could put it in this resolution, and provide that the receipt be given when the money is paid, and such provision be contained in the receipt from each individual beneficiary.

Mr. MORRIS. I do not believe that we ought to put in too many details.



Mr. WHITE. I do not think we need to do that, but it can be reached that way.

Mr. LEMKE. I think the amendment goes about as far as we can go. If the Senate wishes to, they can thrash this out from A to Z anyway.

Mr. WHITE. When you make a transaction, just as these Indians are going to make transactions, the fundamental principle in the thing is embodying the information in the receipt which you give.

Mr. MORRIS. That is right.

Mr. BARRETT. Let us go over the language there. Are you satisfied with it?

Mr. LEMKE. You did not put in the word "adults." How about that? Is that necessary?

Mr. D'EWART. That is not the way the original read; is it? Yes; it is. It says, "a majority of the adult members." That is just the same wording as in the bill.

Mr. BARRETT. I think that is what you should have. That, no doubt, is in conformity with their constitution and bylaws.

Mr. WHITE. Mr. Chairman, I am in favor of the bill, and I am in favor of the amendment, but I have a meeting at the Department at 10 o'clock. I wonder if I might leave.

Mr. MORRIS. I think this is about over. Could you stay just a minute or two?

Mr. MURDOCK. I second the amendment which was offered.

Mr. MORRIS. Did you amend it just a little?

Mr. D'EWART. Yes. Add "adult members."

Mr. MORRIS. I believe you had better read the final draft again.

Mr. D'EWART (reading):

*Provided*, No funds authorized by this Act shall be made available to the Three Affiliated Tribes or their members until the Secretary of the Interior has received an appropriate resolution adopted by the Tribal Council and approved by a majority of the adult members of said tribes accepting payment authorized by this Act as complete and final settlement of all rights, interests, and claims whatsoever of the Three Affiliated Tribes and members thereof against the United States by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

Mr. MORRIS. You have heard the amendment.

Mr. MURDOCK. I second the amendment.

Mr. MORRIS. It has been moved and seconded that the bill be amended as read by Congressman D'Ewart.

All in favor of the motion let it be known by saying "aye."

(General response of "aye.")

Mr. MORRIS. Those opposed, "no."

(No response.)

Mr. MORRIS. The motion prevails and the amendment is adopted and becomes part of the bill.

What shall we do with the bill, gentleman, House Joint Resolution 33?

Mr. D'EWART. I have another amendment I would like to offer for your consideration. I do not make a point of it, but I would like to offer it.

One page 73, line 25, after the word "taxable," add a semicolon and state:

*Provided*, That when such funds are used to acquire property outside the Indian country of the Three Affiliated Tribes such property shall be taxable.

The section 7 makes some payments to these tribes, and this amendment would leave the property they acquired inside the Indian country, inside the boundary of the tribal lands, trust property, and not subject to taxation. If they went out into the city of Williston or Bismarck or Los Angeles, then the property would become taxable as other property.

Mr. MURDOCK. Is it necessary?

Mr. LEMKE. Yes. I took that up with the Indians, and they are opposed to it. They say:

You are taking our land that its tax-exempt and flooding it, and the community will get a lot more money out of the project than the taxes will amount to, from the tourists and so forth.

The Department, however, says—and has an established policy with regard to it—that they are trying to get away from these trust lands in certain areas. I brought that question up yesterday, because you had raised it. They say that where an Indian moves away into a city or an urban community, or into another State, that the trust fund, by their policy, is no longer followed.

Mr. D'EWART. Yes.

Mr. LEMKE. They have suggested that if we do make an amendment it should be on page 70, line 18, and be:

Except that nontaxable and nonalienable status shall not apply to lands or property purchased in urban areas or in the lands located elsewhere than adjacent to the existing reservation, or as it may be extended.

Mr. D'EWART. I am not pressing the amendment, but I think it would save some headaches.

Suppose that this \$5,000,000 were spent at Bismarck. What would it do to your property base?

Mr. WHITE. I will say to the gentleman from Montana that we have a law in Idaho that exempts widows from taxation, and it does not create difficulty.

Mr. D'EWART. I am not pressing the amendment.

Mr. LEMKE. They also said that about 49 would leave the reservation.

I have no particular objection to the amendment. I think it is, perhaps, a good suggestion; but, with what they have stated in the record, I think it is clear enough.

The Senate may add it. Why not let them add a little something if they wish to.

Mr. WHITE. I believe I would be opposed to the amendment.

Mr. D'EWART. All right. I am not pressing it.

Mr. MORRIS. You are not offering it, then? You are just suggesting it?

Mr. D'EWART. Just suggesting it for consideration.

Mr. MURDOCK. Mr. Chairman, I move that the bill be reported.

Mr. D'EWART. I would like to inquire: Did you adopt the amendment to section 5?

Mr. LEMKE. We adopted all the amendments appearing on pages 8 and 9 suggested by the Department yesterday.

Mr. MORRIS. They were adopted yesterday.



Mr. D'EWART. This second amendment on page 9 here says:

For any Indian individual or tribal trust lands within the residual Fort Berthold Reservation as it may be extended, including any such lands acquired in the future. Any irrigation works and related facilities which, on the basis of such investigations, the Secretary of the Interior determines to be feasible are hereby authorized to be constructed, maintained, and operated under his direction.

If I read that correctly, that means that the Indian Bureau constructs, maintains, and operates in perpetuity these irrigation districts.

Mr. BARRETT. Where is that?

Mr. D'EWART. Page 9 of this report.

Mr. LEMKE. I think that could be under the Bureau of Reclamation, and so forth.

Mr. D'EWART. The point is, would the Indians pay for operation and maintenance after they were built, or would they not? Do you see the point I am making?

Mr. MORRIS. Yes; I see what you mean.

Mr. D'EWART. It goes on further down and says:

Repayment of shares of cost to be borne by the Indians shall be subject to the terms and conditions thereof under laws applicable to Indian lands.

However, it does not go into the operation and maintenance. I just raise that for discussion. It may be unnecessary.

Mr. MORRIS. I believe we can safely leave that in at this time, because we will have to deal with the Senate on it in conference. You do raise a very important matter, which should be carefully considered.

Mr. BARRETT. Could we report the bill out now?

Mr. MORRIS. We have not yet. Do I hear a motion with regard to reporting the bill? If so, what is the motion?

Mr. MURDOCK. Mr. Chairman, I move that the bill be reported to the full committee favorably as amended.

Mr. WHITE. I second the motion.

Mr. LEMKE. I second the motion.

Mr. MORRIS. It has been moved and seconded that the bill as amended be reported favorably to the full Committee on Public Lands.

All in favor let it be known by saying "aye."

(General response of "aye.")

Mr. MORRIS. Opposed "no."

(No response.)

Mr. MORRIS. The motion prevails unanimously, and the bill is so reported.

Mr. LEMKE. And the chairman will report the bill to the full committee today?

Mr. MORRIS. Yes, sir; we would like to report it in a few minutes if we can.

(Thereupon, at 10:10 a. m., Tuesday, May 3, 1949, the hearing was concluded.)