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**Letter from Wilbur Brucker to Clair Engle Responding to Engle's  
Request for a Report from the Department of the Army with  
Respect to US House Resolution 9324, April 27, 1956**

Wilbur Brucker

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April 27, 1956

Honorable Clara Engle  
Chairman, Committee on Interior  
and Insular Affairs  
House of Representatives

Dear Mr. Chairman:

Reference is made to your request for the views of the Department of the Army with respect to H. R. 9324, 84th Congress, a bill "Granting certain grazing, fishing, and hunting rights to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota."

The purpose of the bill is to confer on the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, and the members thereof, the right to graze livestock on the land between the actual waterline of the Garrison Reservoir and the taking line of the reservoir as described in Part A of the Joint Resolution of Congress approved October 29, 1949 (63 Stat. 1026, 1028), together with the right of free access to the shoreline of the reservoir, including the right to hunt and fish, subject, however, to any regulations governing the corresponding use by other citizens of the United States.

The Department of the Army has considered the enactment of the above-mentioned bill. The War Department Civil Appropriation Act, 1948, approved July 31, 1947 (61 Stat. 685, 690) provided \$5, 105, 625 for the acquisition of lands and rights therein within the taking line of the Garrison Reservoir, which land lies within the area established as the Fort Berthold Reservation, including all elements of value, severance damages, and reestablishment and relocation costs. This amount was made available to the Indians subject to the condition that a contract between the United States and the Three Affiliated Tribes be negotiated and approved by a majority of their adult members, the contract to provide for the conveyance of land interests therein, provided, however, that notwithstanding such contract or the provisions of the Act cited above, the Indians might bring suit in the Court of Claims on account of additional damages, if any, alleged to have been sustained by the Indians by reason of taking of the lands and rights in the Fort Berthold Indian Reservation on account of any treaty obligation of the Government or any intangible cost of reestablishment or relocation for which the tribes would not be compensated by the \$5,105,625 appropriated.

Pursuant to the Act cited above, a contract dated May 20, 1948 was entered into between the Indians and the United States and was submitted to the Congress for ratification. Article X of the contract provided for the reservation of the grazing and hunting and fishing rights referred to in H. R. 9324. However, the provisions of the contract relating to these rights were deleted from House Joint Resolution 33, 81st Congress, prior to its enactment as the Joint Resolution of Congress approved October 29, 1949, cited above, when the compensation provided for in the contract was increased from \$5,105,625 to \$12,605,625. The additional \$7,500,000 was to be "in full satisfaction of (1) all claims, rights, demands and judgments of said tribes or allottees or heirs thereof arising out of this Act and not compensated for out of the said \$5,105,625; (2) and of all other rights, claims, demands, and judgments of said tribes, individual allottees or heirs thereof, of any nature whatsoever existing on the date of enactment of this Act, whether of tangible or intangible nature and whether or not cognizable in law or equity in connection with the taking of said land and the construction of said Garrison Dam Project."

H. R. 4635, 82nd Congress, was designed to amend the Joint Resolution of Congress approved October 29, 1949 to restore some of the rights, including those provided for in H. R. 9324, which had been included in the contract dated May 20, 1948. However, no action was taken on the bill.

Most of the lands identified in the bill have been leased for a five year term expiring in 1959. An annual rental of \$23,459.42 is derived from the leasing of the 67,654.26 acres under lease. Approximately 88% of the lands are leased to Indians and former Indian permittees. Enactment of this measure would result in the lose of the rental derived from the leasing of the lands affected thereby.

The Bureau of the Budget advises that there is no objection to the submission of this report. However, the Bureau of the Budget points out that it would have no objection to the enactment of this legislation with minor clarifying amendments proposed by the Department of the Interior.

Sincerely yours,

Wilbur M. Brucker (Signed)  
Secretary of the Army