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## Letter from Ralph Hoyt Case to Representative Burdick Regarding Report Given to Fort Berthold Tribal Business Council, January 6, 1950

Ralph Hoyt Case

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LAW OFFICE OF  
**RALPH HOYT CASE**  
NATIONAL PRESS BUILDING  
WASHINGTON, D. C.

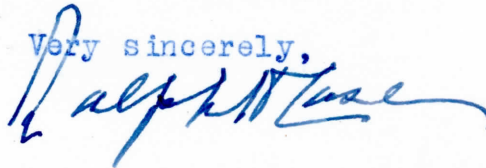
January 6, 1950

Honorable Usher L. Burdick  
House of Representatives  
Washington, D. C.

Dear Mr. Burdick:

I enclose copy of my Report dated  
January 4th to the Tribal Business Council,  
Fort Berthold Reservation, for your infor-  
mation and files.

Very sincerely,

A handwritten signature in blue ink, appearing to read "Ralph Hoyt Case", written in a cursive style.

January 4, 1950

Mr. Carl Whitman, Jr., Chairman  
And Members, Tribal Business Council  
Three Affiliated Tribes  
Fort Berthold Reservation  
Elbowoods, North Dakota

REPORT TO TRIBAL BUSINESS COUNCIL

Gentlemen:

Mr. Lemke has returned to Washington and I had a conference with him today. I had already sent him copies of previous reports and this shortened the time it took to bring him up to date on all matters concerning Garrison Project.

On the question of additional legislation, his first question was as to whether or not the affirmative vote had been taken on P.L.437. I was able to give him the information contained in Chairman Whitman's letter to me of December 27th. I next told him that the additional legislation which the Tribal Council would ask for would be composed of the paragraphs which were in H.J.Res.33, but which were omitted from P.L.437. He expressed himself about as follows:

That it would be unwise to introduce supplemental or amendatory legislation until the Act - P.L.437 - comes into effect by the affirmative vote of a majority of the adult members of the Three Tribes. In explanation of this, it is certainly true that even Congress cannot amend a law which has been passed but which has not gone into effect because a condition in the law has not been complied with. While P.L.437 is the law, it is not now in effect and will not be in effect until the proof of the affirmative vote is forwarded to the Speaker of the House by the Secretary of the Interior.

Mr. Leake's position, in my opinion, is one hundred per cent correct and it might be disastrous to introduce any supplemental or amendatory legislation prior to the effective date of P.L.437. Please note that if the Congress can amend P.L.437 now by adding the sections you want, they might also add another section striking out \$7,500,000 from the Act. This of course is very extreme and will not happen. I cite this to you, however, to show the necessity of closing the door on P.L.437 before we seek to supplement or amend it.

On the question of the supplemental legislation, Mr. Lemke states about as follows:

That on the legislation as at present proposed, it deals with the Fort Berthold situation only and he would have serious difficulty in getting it through his Committee--Public Lands of the House. He said, further, that passage by the House would be almost impossible - a single objection by any member would prevent passage. Further, even if the first two obstacles - that is, action by the Committee and action by the House - were overcome, he feels, in effect, that the Senate would simply "tear us to pieces".

On all these points, I feel Mr. Lemke has reached a sound conclusion. However, he is not the man who says "No", but says "No, but there is another way to get this done".

His present suggestion as to the correct way to do this effectively is to introduce as an independent but as a general measure the provisions contained in the contract and in the supplemental section of J.J.Res.33 - and make these provisions to cover all Indian lands which are being taken now or in the future for the Missouri River Development Project under the Act of December 22, 1944.

Please understand that this is Mr. Lemke's idea and I shall refer to it as the Lemke Plan. Mr. Lemke asked me to draft the legislation. In drafting it, I will follow his ideas and will submit it to him for his consideration and approval and then will forward it to the Tribal Council or hand it to Mr. Whitman if he is here at that time. I think I can assure you that the draft will be ready to hand to Mr. Lemke by the end of next week, January 14th.

I am very much pleased with Chairman Whitman's letter of December 27th and the following is the report from Indian Office on four questions:

1. Does the Secretary of the Interior have authority to buy lands, using trust funds, and to issue trust patents thereon to the Tribe or individual Indians?

Answer: The letter, of which I do not have a copy, stating the authority to buy lands using trust funds and to issue trust patents therefor to the Tribe or individual Indians, was passed and approved by the Office of the Solicitor of the Department on December 27th. Indian Office is not advised that the letter has been signed but feel certain that the letter will be signed if not already signed. When signed, it will be mailed to Chairman Whitman.

2. The appointment of the appraiser under Section 3 of the Act - P.L.437?

Answer: Mr. Paul Fickinger was appointed December 30, 1949, and will act.

3. Will Interior assume the expenses of the administration of the Act and of reconstruction of Agency buildings and facilities, etc.?

Answer: On this question, Mr. S.J. Flickinger advises me that the letter addressed to Carl Whitman, Jr., Chairman, dated December 9, 1949, approved December 19, 1949, states that in the opinion of the Department of the Interior, the contract provisions in regard to administrative expenses, the reconstruction of Agency buildings and facilities, roads and bridges, all will be paid out of the funds of the United States and will not be charged against Indian funds. The letter is very fine and strong and most acceptable to us. Chairman Whitman doubtless has this letter by this time.

4. Who has been designated by the Secretary of Agriculture as appraiser representing the Department of Agriculture under Section 3 of P.L. 437?

Answer: I now advise you that Interior Department letters, signed by Secretary Chapman, went to General Pick and to the Secretary of Agriculture in regard to the appointment of appraisers. These letters went forward December 30, 1949.

The Department of Agriculture has received the letter from Interior and will take early action. Mr. Ralph L. Will has in mind who he will recommend and when the Secretary of Agriculture makes the appointment, Interior will be advised promptly. Action is expected in a few days.

Having in mind the foregoing, I now recommend that Chairman Whitman's plan of proceeding with the taking of the affirmative vote be accelerated and concluded at the earliest possible date.

All matters are under control here and I believe Chairman Whitman and delegates, if desired, should complete the taking of the vote before coming on to Washington.

Very respectfully,

*Ralph L. Will*  
Council, Garrison Project.