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## Letter from Ralph H. Case to Senator Langer Regarding US House Joint Resolution 33, November 18, 1949

Ralph Hoyt Case

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Indians

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

November 18, 1949

*ask abs*

11/22  
held

*[Signature]*

Honorable William Langer  
United States Senate  
Washington, D. C.

Dear Senator Langer:

I enclose for your information copy of a Report I am mailing today to the Fort Berthold Tribal Council in regard to procedure under H.J. Res. 33 (P.L. 437). I would appreciate it very much if you, at your convenience, would let me have your comments on the suggestions I have made in regard to the vote to accept or reject Public Law 437.

Very sincerely,

*Ralph Hoyt Case*

November 18, 1949

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

REPORT TO TRIBAL BUSINESS COUNCIL

Gentlemen:

Indian Office reports to me today that estimates of the cost of the appraisal called for by Section 3 of Public Law 437 (H.J.Res.33) have not been made by Indian Office and have not, therefore, been submitted to the Bureau of the Budget. Furthermore, it is reported that Indian Office does not expect the deficiency Bill to pass before March, 1950. This situation is not favorable to your interests.

A further question apparently is being considered--and that is whether or not the costs of the appraisal directed by Section 3 of the Act are chargeable against the fund of \$5,105,625? It is my opinion that the wording of Section 2 (a) plainly excludes a charge being made against your fund for the appraisal. Under that subsection--"Payment for tribal and allotted Indian lands and improvements, including heirship interests, and values above and below the surface, within the Taking Area"---may be made. By the omission of the express provision for incidental costs, all such costs are excluded. In discussing the matter with Indian Office, I restated the position we have maintained throughout--and that is that the entire fund of \$12,605,625 is your money and none of it can be used for expenses of the Government which are necessary under the directions contained in the Act. I will continue to insist upon this interpretation of the Act both before the Indian Office and the Bureau of the Budget.

The foregoing problems and the estimates are not to be delayed, awaiting the approval or disapproval of the act as provided in Section 1 of the Act. The approval or the disapproval of the Act will not change the program of the construction of Garrison Dam. In any event, lands, improvements and values above and below surface will be taken when the waters of Garrison Reservoir reach the point where the waters cover the land. This, I am assured by Indian Office, is obvious and estimates must be submitted covering Government expense to meet the situation whether the Act is approved or disapproved.

On the question of the vote to be cast by the adult members of the Three Affiliated Tribes, I have the following suggestions and recommendations to make:

In my opinion, the wording of Section 1 leaves to the Tribal Council the method of casting the vote of the adult members. I recommend that the Tribal Council by Resolution direct this vote to be by ballot which recites the question to be voted on, with proper spaces indicated - "yes" - "no"; and that each ballot voted bear the signature of the member casting the ballot. The regulations covering the casting of these ballots should also provide that the ballots may be cast over a designated period of time - beginning sufficiently in advance of the expiration of the six-months period so that ample time can be given to each district and all voters can be reached and personally advised by a member or members of the Tribal Council - and in the presence of such members, the ballot be completed and certified as cast by a qualified voter.

In my opinion, it is not necessary for you to hold what is commonly regarded as an "election"; that is, this is a vote by the individual adult member and can be taken at the convenience of each member and the convenience of the Tribal Council.

I further recommend that the ballots when made, signed and certified should be enclosed either singly or in groups in sealed envelopes and from time to time be deposited with the Superintendent. Time should be allowed for the opening, the tabulating and the certifying of the entire vote. All ballots should be retained in order and should bear a number corresponding with the number opposite the name of the voter on the poll list. This will place the Tribal Council and your Superintendent in position to certify the final results, accompanied by the ballots and the proper list, to the Commissioner of Indian Affairs for certification to the Clerk of the House of Representatives. As H.J.Res. 33 originated in the House of Representatives, it is a proper procedure to make the certification to the Clerk of the House.

In view of the tolerant and cooperative position taken by the Deputy Chief of Engineers, Major General R. C. Crawford, in our recent conference, I do not feel that you should be disturbed over the dates contained in Sections 8, 9, and 11 of the Act.

I will be pleased to receive from you a reaction of the suggestions and recommendations stated above.

A copy of Public Law 457, 81st Congress, is enclosed to each member of the Tribal Council with this Report. Additional copies have been mailed to Chairman Whitman for such other uses as will doubtless be necessary.

Yours very truly,

*Ralph N. Case*

Counsel in re Garrison Project

*Stat. omitted*