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OMNIBUS SUBMARGINAL LAND TRANSFERS

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HEARING

KANSAS STATE UNIVERSITY

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 5778 and Related Bills

TO DECLARE THAT CERTAIN SUBMARGINAL LAND OF
THE UNITED STATES SHALL BE HELD IN TRUST FOR CER-
TAIN INDIAN TRIBES AND BE MADE A PART OF THE RESER-
VATIONS OF SAID INDIANS, AND FOR OTHER PURPOSES.

HEARING HELD IN WASHINGTON, D.C.

APRIL 24, 1975

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4	Amendments to the Indian Self-Determination Act
3	Public Law 93-101 (1st of)
2	Resolution No. A-141-74-10
1	Amendments to the Indian Self-Determination Act

**H.R. 5778—TO DECLARE THAT CERTAIN SUBMARGINAL
LAND OF THE UNITED STATES SHALL BE HELD IN
TRUST FOR CERTAIN INDIAN TRIBES AND BE MADE
A PART OF THE RESERVATIONS OF SAID INDIANS,
AND FOR OTHER PURPOSES**

THURSDAY, APRIL 24, 1975

**U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INDIAN AFFAIRS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.**

The subcommittee met, pursuant to notice, at 9:58 a.m., in room 1324, Longworth House Office Building, Hon. Lloyd Meeds (chairman of the subcommittee) presiding.

Mr. MEEDS. The Subcommittee on Indian Affairs of the full Committee on Interior and Insular Affairs will be in order for taking testimony on H.R. 5778 and related bills providing for a trust transfer of the interest of the United States in and to certain "submarginal lands" to certain Indian tribes.

Without objection H.R. 5778 and the report of the Department will be made a part of the record at this point in the proceedings. In addition, H.R. 1590, H.R. 2639, H.R. 2725, and H.R. 3680 will also be made a part of the record at this point.

[The documents referred to follow:]

[H.R. 5778, 94th Cong., 1st sess.]

A BILL To declare that certain submarginal land of the United States shall be held in trust for certain Indian tribes and be made a part of the reservations of said Indians, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to all valid existing rights, all of the right, title, and interest of the United States in the land enumerated below and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriations Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the benefit of the below named tribes, are hereby de-

(1)

clared to be held by the United States in trust for each said tribe and shall be a part of the reservations heretofore established for each said tribe:

Tribes	Reservation	Submarginal land project donated to said tribe or group	Approximate acreage
1. Bad River Band of the Lake Superior Tribe of Chippewas.	Bad River	Bad River LI-WI-8	13, 189
2. Blackfeet	Blackfeet	Blackfeet LI-MT-9	9, 037
3. Cherokee Nation	Cherokee	Delaware LI-OK-4	13, 778
		Adair LI-OK-5	4, 960
4. Cheyenne River Sioux	Cheyenne River	Cheyenne Indian LI-SD-13	5, 111
5. Crow Creek Sioux	Crow Creek	Crow Creek LI-SD-10	19, 627
6. Lower Brule Sioux	Lower Brule	Lower Brule	14, 290
7. Devils Lake Sioux	Fort Totten	Fort Totten LI-ND-11	1, 424
8. Fort Belknap Indian Community	Fort Belknap	Fort Belknap LI-MT-8	25, 536
9. Fort Peck	Fort Peck	Fort Peck LI-MT-6	85, 338
10. Lac Court Oreilles Band of Lake Superior	Lac Court Oreilles	Lac Court Oreilles LI-WI-9	13, 185
11. Keweenaw Bay Indian Community	L'Anse Community	L'Anse LI-MI-8	4, 022
12. Minnesota Chippewa	White Earth	Twin Lakes LI-MN-6	24, 114
		Flat Lake LI-MN-15	4, 436
13. Navajo	Navajo	Ganup-Two Wells LI-NM-18	70, 000
14. Oglala Sioux	Pine Ridge	Pine Ridge LI-SD-7	46, 522
15. Rosebud Sioux	Rosebud	Cutmeat LI-SD-8	10, 089
		Antelope LI-SD-9	18, 642
16. Shoshone-Bannock	Fort Hall	Fort Hall LI-ID-2	8, 710
17. Standing Rock Sioux	Standing Rock	Standing Rock LI-ND-10	6, 879

SEC. 2. The property subject to this Act shall be administered in accordance with the laws and regulations applicable to Indian tribal property.

SEC. 3. Any and all receipts received prior to the date of enactment of this Act by the United States from whatever source and for whatever purpose which directly relate to any land conveyed by this Act, whether such receipts are in a special fund of the Treasury as required by section 6 of the Act of August 7, 1947 (61 Stat. 913, 915), or not, shall on the date of enactment of this Act be deposited to the credit of the Indian tribe receiving such land and may be expended by the tribe for such beneficial programs as the tribal governing body may determine.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 23, 1975.

HON. CARL B. ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a proposed bill "To declare certain submarginal lands of the United States to be held in trust for certain designated Indian tribes or communities and to make such lands part of the reservation involved."

We recommend that the proposed bill be referred to the appropriate Committee for consideration, and that it be enacted.

Our proposal affects approximately 398,899 acres of Federally owned lands, and involves 17 Indian tribes or communities. All of the tracts involved lie within, abut, or are in close proximity to existing reservation boundaries.

Section 1 of our bill would declare all rights, title and interest of the United States in the lands, and the improvements thereon, acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief Acts, to be held in trust by the United States for the Indian tribes and groups identified in the bill.

Section 1 reserves to the United States the right to use for military purposes any part of the lands that are within the boundaries of Ellsworth Air Force Range, located along the southwestern portion of the Pine Ridge Reservation, South Dakota. Section 1 also reserves to the United States the right to flood and restrict the use of lands within the Bad River Flood Control Project, Wisconsin. The proviso of section 1 excepts from the provisions of the bill any of the lands or any interests therein that are needed for authorized water resource development in the Missouri River Basin.

Section 2 of our proposal describes the lands declared by section 1 to be held in trust for the benefit of the affected 17 tribes or communities. Those tribes or communities are named in section 2.

Section 3 of our proposal provides that all existing rights which individuals may have in the land covered by the bill shall be protected.

Section 4 of our proposal would authorize the Indian Claims Commission to determine *de novo* whether the beneficial interest conveyed therein should or should not be set off against claims arising before the Commission. The purpose of this section is to allow the Commission, because of the magnitude of this land transfer, to review its previous practice with respect to such offset on submarginal lands.

The lands that would be transferred to trust status by our proposal are commonly known as submarginal lands. These lands were purchased by the United States during the 1930's as a part of the national program to retire from private cultivation land which was low in productivity or otherwise ill-suited for farm crops, a program under which over eleven million acres were acquired by the United States. Of the total acreage so purchased, almost half remains within the jurisdiction of the Forest Service as part of the National Forest and National Grasslands systems, over 2 million acres were transferred to the Bureau of Land Management and nearly a million acres were transferred to States and municipalities through a combination of sales and grants. The overall national program was conducted under the National Industrial Recovery Act (48 Stat. 200), subsequent relief acts, and Title III of the Bankhead-Jones Farm Tenant Act. The particular lands, subject to the proposed bill, were purchased at a cost of \$1,852,773, and, along with other submarginal lands, were transferred by a series of Executive Orders from the Department of Agriculture to the Department of the Interior for Indian land projects to benefit those Indians under the jurisdiction of the Bureau of Indian Affairs.

The following table shows all of the Indian submarginal land projects:

	Reservation	Acreage	Original cost
Project:¹			
Seminole, LI-FL-6	Seminole, Fla.	27,086	² \$92,800
Fort Hall, LI-ID-2	Fort Hall, Idaho	8,711	133,213
L'Anse, LI-MI-8	L'Anse, Mich.	4,016	16,121
Twin Lakes, LI-MN-6	White Earth, Minn.	24,114	156,236
Flat Lake, LI-MN-15	White Earth, Minn.	4,436	19,428
Fort Peck, LI-MT-6	Fort Peck, Mont.	85,338	412,302
Fort Belknap LI-MT-8	Fort Belknap, Mont.	25,530	89,936
Blackfeet, LI-MT-9	Blackfeet, Mont.	9,037	31,076
Standing Rock, LI-ND-10	Standing Rock, N. Dak.	4,086	³ \$21,612
Standing Rock, LI-ND-10	Standing Rock, S. Dak.	6,878	24,911
Fort Totten LI-ND-11	Fort Totten, N. Dak.	1,424	11,869
Delaware, LI-OK-5	Cherokee, Okla.	13,778	49,313
Adair, LI-OK-6	Cherokee, Okla.	4,960	10,934
Burns Colony, LI-OR-5	Burns Colony, Oreg.	760	14,620
Pine Ridge, LI-SD-7	Pine Ridge, S. Dak.	46,213	207,792
Cutmeat, LI-SD-8	Rosebud, S. Dak.	10,089	52,803
Antelope, LI-SD-9	Rosebud, S. Dak.	18,642	102,201
Crow Creek, LI-SD-10	Crow Creek, S. Dak.	19,627	481,591
Lower Brule, LI-SD-10	Lower Brule, S. Dak.	14,290	⁴ \$56,990
Cheyenne Indian, LI-SD-13	Cheyenne River, S. Dak.	5,110	⁵ \$18,202
Bad River, LI-WI-8	Bad River, Wis.	13,069	32,093
Lac Courte, LI-WI-9	Lac Courte Oreilles, Wis.	13,185	25,598
Stockbridge, LI-WI-11	Stockbridge, Wis.	13,077	69,546
Project:⁷			
Zia-Santa Ana, LI-NM-6	Zia-Santa Ana, N. Mex.	46,391	⁸ \$85,323
Laguna, LI-NM-7	Laguna, N. Mex.	106,512	⁹ \$265,479
Cuba-Rio Puerco, LI-NM-38-22	Laguna, N. Mex.	85,610	¹⁰ \$150,860
Acoma, LI-NM-8	Acoma, N. Mex.	103,954	¹¹ \$220,724
Jemez, LI-NM-9	Jemez, N. Mex.	113,141	¹² \$282,853
Isleta, LI-NM-11	Isleta, N. Mex.	17,493	¹³ \$31,810
Zuni, LI-NM-13	Zuni, N. Mex.	62,028	¹⁴ \$131,177
Gallup Two-Wells, LI-NM-18	Navajo, N. Mex.	72,267	¹⁵ \$333,144
Sandoval County, N. Mex.	San Idelfonso, N. Mex.	5,914	(*)

¹ Projects transferred by: Executive Order 7868, Apr. 15, 1938; Executive Order 8473, July 8, 1940.

² Held in trust by United States for the tribe, pursuant to Act of July 30, 1956 (70 Stat. 581).

³ Includes 650.09 acres located within the Oahe Dam and Reservoir project.

⁴ Includes 495 acres located within the Fort Randall Dam and Reservoir project.

⁵ Includes 294 acres located within the Fort Randall Dam and Reservoir project.

⁶ Includes 1,509 acres located within the Oahe Dam and Reservoir project.

⁷ Projects transferred by: Executive Orders No. 7792, Jan. 1, 1938; No. 7975, Sept. 16, 1938; No. 8255, Sept. 18, 1939; No. 8471, July 8, 1940; No. 8472, July 8, 1940; No. 8696, Feb. 28, 1941; No. 8697, Feb. 28, 1941.

⁸ Part of these lands are now held in trust by the United States for the various Pueblos, part has been transferred to Bureau of Land Management, part has been reserved for administrative purposes, and part has been transferred to the Department of Agriculture. See Act of Aug. 13, 1949 (63 Stat. 604), 15 "Federal Register" 1951, and Act of Aug. 2, 1956 (70 Stat. 941, 942).

Out of the original Indian submarginal land projects, 398,899 acres remain and affect 17 Indian tribes and communities. This proposal will transfer the title to these remaining lands.

It should be noted that five statutes have already been enacted transferring to affected tribes the project lands that were administered for them. Three of those statutes transferred project lands to the Seminole Indians of Florida and to the Pueblos and other groups in New Mexico. See the Act of July 30, 1956 (70 Stat. 581), the Act of August 2, 1956 (70 Stat. 941), and the Act of August 13, 1949 (63 Stat. 604). Two later statutes, the Act of October 9, 1972 (86 Stat. 795) and the Act of October 13, 1972 (86 Stat. 806), respectively transferred submarginal lands to the Stockbridge Munsee Indian Community, Wisconsin, and to the Burns Indian Colony, Oregon. One of the five Acts—the transfer to the Stockbridge Munsee Indian Community—reserved the subsurface to the United States.

Although the subsurface value of the remaining submarginal lands is not substantial, there are known reserves of oil, gas, coal, and bentonite under the submarginal lands project at the Fort Belknap Indian Community, Montana, and known oil reserves under the project at the Fort Peck Reservation, Montana. The Bureau of Land Management currently leases the mineral rights under all 25,530.10 acres of the project at Fort Belknap. Mineral exploration is in progress on the lands under lease and there are indications that the Fort Belknap project may have sizeable reserves of natural gas. The earnings deposited in the United States Treasury from the Fort Belknap submarginal lands since the date of their purchase are \$161,763.62, and the earnings from the Fort Peck project lands since the date of their purchase are \$2,886,461.65. The total earnings deposited in the U.S. Treasury from all 17 submarginal lands project since the date of their purchase is \$3,939,417.37.

As the various submarginal land acquisition projects were transferred from the Secretary of Agriculture to the Secretary of the Interior, the Superintendents of the various Indian agencies were informed that these lands should be administered for the benefit of the Indians in the same manner as tribal land. The use thereof was to be discussed with the tribal councils concerned.

Several tribes adopted tribal land enterprise programs which were administered by tribal officials for the primary purpose of obtaining maximum utilization of the tribal land resources. The majority of these programs were for livestock grazing purposes. As the programs were included in the issuance of leases and permits to both Indians and non-Indians, as well as the assignment of units to members of the tribes, it was determined administratively that submarginal lands should be made available to the tribes by permits from the Department, in order that the tribes could issue subpermits as a part of their programs. As a general rule, these permits were issued for a very nominal rental.

In 1947, a change occurred with respect to the income the tribes were deriving from subletting submarginal land. A budget limitation forced a drastic reduction in the personnel of the Bureau of Indian Affairs, and as a result many of the tribes had to employ personnel to administer a portion of the realty functions at the agency level and used the income received from submarginal lands to pay the salaries of these employees. This diverted income that otherwise would have gone to the tribes.

All use permits to the tribes expiring subsequent to 1954 have been renewed on a more realistic rental basis. The current formula used in determining the rental value to be paid to the tribes has resulted in their receiving rentals comparable to those received by the Government from similar lands in the same general areas administered by the Bureau of Land Management and the U.S. Forest Service.

Commercial timber cutting on these lands is under the supervision of the BIA. Receipts from commercial timber operations are deposited in the General Fund of the United States Treasury. Since 1964, the grazing rights have been granted to the respective tribes without charge, on a revocable permit. The mineral rights on these submarginal lands are currently managed by the Bureau of Land Management, which issues the mineral leases. Receipts from the mineral leases are deposited in the U.S. Treasury, but are segregated pursuant to the Act of August 7, 1947 (61 Stat. 913, 915).

The present title situation is unsatisfactory because the tribal management units are partially Federally owned and partially Indian owned. On many reservations the Indians have been reluctant to expend tribal funds for any improvements on the submarginal lands because of their uncertain tenure. Many Indians who hold assignments on these lands would have constructed their own homes or would have made permanent improvements except for the uncertainty regarding the title. They are unable to obtain outside financing without title to the land. These submarginal lands are needed by the Indians in order to obtain maximum utilization of their tribal lands and in order to augment their other income. If the lands are not turned over to the Indians, proper utilization will not be possible, and the loss of the use of such lands would seriously affect the economic standards of many Indians. If the title is transferred to the Indians, further consolidation into acceptable ranch units for grazing purposes will be possible. In this regard, the Department has received requests from all 17 tribes for the transfer of their respective submarginal lands into trust status. In each instance, the tribes can, if given the opportunity, demonstrate a need and a planned-for, significant use of their submarginal land.

Some of the submarginal lands are located within the taking areas of the Fort Randall, Oahe and the Big Bend Reservoirs on the Missouri River. Special legislation has recently been enacted by Congress compensating the Indians for the taking of the Indian owned lands that are needed for the Fort Randall and Oahe Reservoirs, and similar legislation will be needed in connection with the Big Bend Reservoir. Unless our proposed legislation to give the Indians the Federally owned submarginal lands under consideration reserves to the United States right to flood or use the portion that is needed for the Missouri River Basin Flood Control Program, it will be necessary for the United States to buy back from the Indians some of the lands that are given to them. The proposed legislation therefore reserves such right to the United States. A similar reservation is included with respect to lands within the Bad River Flood Control Project, Wisconsin.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal from the standpoint of the Administration's program.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

Enclosure.

A BILL To declare certain submarginal lands of the United States to be held in trust for certain designated Indian tribes or communities and to make such lands part of the reservation involved

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the rights, title, and interest of the United States of America in the lands described in section 2 of this Act, and the improvements thereon, that were acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now under the jurisdiction of the Department of the Interior and administered for the benefit of the Indian tribes or communities as hereinafter named in section 2 of this Act, are hereby declared to be held by the United States in trust for such Indian tribes or communities, subject to the appropriation or disposition of any of the lands, or interests therein, within the Pine Ridge Indian Reservation, South Dakota, as authorized by the Act of August 8, 1968 (82 Stat. 663), and subject to a reservation in the United States of a right to prohibit or restrict improvements or structures on, and to continuously or intermittently inundate or otherwise use, lands in sections 25 and 26, Township 48N, Range 3W, at Odanah, Wisconsin, in connection with the Bad River Flood Control Project as authorized by the Act of July 3, 1958 (72 Stat. 297, 311), and the lands shall be parts of the reservations heretofore established for the tribes or communities involved: *Provided*, That the provisions of this Act shall not apply to the title to any part of such lands or any interest therein that have been prior to the date of this Act included in the authorized water resources development projects in the Missouri River basin as authorized by the Act of July 3, 1958 (72 Stat. 297, 311), as amended and supplemented.

SEC. 2. The lands, declared to be held in trust by the United States by section 1 of this Act, for the benefit of the Indian tribes or communities named in this section, are described as follows:

Tribes	Reservation	Submarginal lands project	Counties	State
Bad River Band of the Lake Superior Tribe of Chippewas.	Bad River	Bad River LI-WI-8	Ashland and Iron	Wisconsin.
Blackfeet Tribe of the Blackfeet Indian Reservation, Montana.	Blackfeet	Blackfeet LI-MT-9	Glacier and Pondera	Montana.
Cherokee Tribe of Oklahoma.	Cherokee, Oklahoma.	Delaware LI-OK-4, Adair LI-OK-5.	Delaware and Adair	Oklahoma.
Cheyenne River Sioux Tribe, South Dakota.	Cheyenne River	Cheyenne Indian LI-SD-13.	Dewey	South Dakota
Crow Creek Sioux Tribe, South Dakota.	Crow Creek	Crow Creek LI-SD-10	Hughes, Hyde, and Buffalo.	Do.
Devils Lake Sioux	Fort Totten	Fort Totten LI-ND-11	Benson	North Dakota.
Fort Belknap Indian Community.	Fort Belknap	Fort Belknap LI-MT-8	Blaine and Phillips	Montana.
Fort Peck.	Fort Peck	Fort Peck LI-MT-6	Roosevelt and Valley	Do.
Keweenaw Bay Indian Community, Michigan.	L'Anse	L'Anse LI-MI-8	Baraga	Michigan.
Lac Courte Oreilles Band of Lake Superior Chippewas.	Lac Courte Oreilles	Lac Courte LI-WI-9	Sawyer	Wisconsin.
Lower Brule Sioux.	Lower Brule	Lower Brule LI-SD-10	Stanley and Lyman	South Dakota.
Minnesota Chippewa	White Earth	Twin Lakes LI-MN-6	Mahnomen	Minnesota.
		Flat Lake LI-MN-15	Becker	
Navajo	Navajo	Callup-Two Wells LI-NM-18.	McKinley	New Mexico.
Oglala Sioux	Pine Ridge	Pine Ridge LI-SD-7	Bennett, Shannon Washabaugh, and Washington.	South Dakota.
Rosebud Sioux	Rosebud	Cutmeat LI-SD-8, Antelope LI-SD-9.	Todd	Do.
Shoshone-Bannock Tribes	Fort Hall	Fort Hall LI-ID-2	Bannock, Bingham and Power.	Idaho.
Standing Rock Sioux	Standing Rock	Standing Rock LI-ND-10	Sioux	North Dakota.
		Standing Rock LI-SD-10.	Corson	South Dakota.

SEC. 3. Nothing in this Act shall deprive any person of any existing valid right of possession, contract right, interest, or title he may have in the land involved, of any existing right of access to public domain lands over and across the land involved, as determined by the Secretary of the Interior, and, of any existing rights under permits or leases issued pursuant to section 5 of the Mineral Leasing Act for Acquired Lands (61 Stat. 913, 915), or the Mineral Leasing Act of 1920 (41 Stat. 437, as amended).

SEC. 4. Notwithstanding the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the Indian Claims Commission is directed to determine the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

[H.R. 1590, 94th Cong., 1st sess.]

A BILL To declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, all of the right, title, and interest of the United States in the lands, and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the benefit of the Minnesota Chippewa Tribe, White Earth Reservation, are hereby declared to be held by the United States in trust for said tribe, and the lands shall be a part of the reservation heretofore established for the tribe.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the beneficial interest conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

[H.R. 2639, 94th Cong., 1st sess.]

A BILL To provide that certain lands shall be held in trust for the Standing Rock Sioux Tribe in North Dakota and South Dakota

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the equitable title to the lands and interests in lands, together with the improvements thereon, acquired by the United States on or adjacent to the Standing Rock Sioux Indian Reservation in North Dakota and South Dakota, under authority of title II of the National Industry Recovery Act, approved June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), and section 55 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (49 Stat. 750, 781), administrative jurisdiction over which was transferred from the Secretary of Agriculture to the Secretary of the Interior by Executive Order Numbered 7868, dated April 15, 1938, for the use and benefit of the Standing Rock Sioux Tribe is hereby declared to be in the United States in trust for the use and benefit of the Standing Rock Sioux Tribe in the same manner and to the same extent as other lands held in trust for the Standing Rock Sioux Tribe.

SEC. 2. Nothing in this Act shall deprive any person of any individual right, ownership, right of possession, or contract right he may have in any land or interest in land referred to in this Act.

[H.R. 2725, 94th Cong., 1st sess.]

A BILL To declare that certain federally owned land is held by the United States in trust for the Keweenaw Bay Indian Community and to make such lands parts of the reservation involved

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the right, title, and interest of the United States of America in the lands, and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now under the jurisdiction of the Department of the Interior for administration for the benefit of the Keweenaw Bay Indian Community (LI-MI-8, 4,016 acres) are hereby declared to be held by the United States in trust for this Indian tribe, and the lands shall be parts of the reservation heretofore established for this tribe.

SEC. 2. Nothing in the Act shall deprive any person of any right of possession, contract right, interest, or title he may have in the land involved.

[H.R. 3680, 94th Cong., 1st sess.]

A BILL To declare that certain federally owned land is held by the United States in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians, and to make such lands parts of the reservation involved

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the right, title, and interest of the United States of America in the lands, and the improvements thereon, that were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now under the jurisdiction of the Department of the Interior for administration for the benefit of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians (LI-WI-9), 13,185 acres) and hereby declared to be held by the United States in trust for this Indian tribe, and the lands shall be parts of the reservation heretofore established from this tribe.

SEC. 2. Nothing in the Act shall deprive any person of any right of possession, contract right, interest, or title he may have in the land involved.

Mr. MEEDS. H.R. 5778 is a general bill transferring trust title to submarginal lands to all affected tribes, including earned income. The other four bills relate to the transfer of submarginal lands of specific tribes, including the White Earth Reservation of the Minnesota Chippewa; the Standing Rock Sioux Tribe of North and South Dakota; the Keweenaw Bay Indian Community of Michigan; and

the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin.

Today the subcommittee will be addressing itself to the general bill, H.R. 5778.

The lands involve approximately 350,000 acres and were purchased by the United States in the depression years as a relief measure for certain Indian tribes. The bill would affect 17 Indian tribes in nine States.

These lands were purchased by the United States as part of a general emergency relief program of the 1930's necessitated by the severe depression and a series of natural disasters, including floods, drought, and duststorms.

In 1933, the Congress enacted the National Industrial Recovery Act which provided authority for the creation of an agency to administer the selection and purchase of "submarginal lands." It was the purpose of this program to purchase and take out of production large tracts of land which were overworked and depleted and to enable occupants of these lands to relocate to more promising areas where they could be rehabilitated and taken off the relief rolls.

The term "submarginal" is somewhat of a misnomer in that it referred to the temporary inability of the lands to provide more than a marginal economic return rather than to a long term submarginal status.

Out of \$25 million appropriated to the Federal Emergency Relief Administration for purchase of submarginal lands, \$2.5 million was allocated by the Roosevelt administration for the purchase of submarginal lands for the benefit of Indian tribes.

By 1934, the amount allocated for Indian submarginal land projects totaled \$5 million and five Indian "demonstration areas" had been authorized. These included: (1) Checker boarded reservations, (2) watershed or water control areas, (3) additional lands to supplement reservations, (4) lands for homeless Indian hands or communities forming acute relief problems, and (5) lands needed for proper control of grazing areas.

Eventual control of these lands was vested in the Farm Security Administration in the Department of Agriculture in 1935. A series of agreements were entered into between FSA and the Bureau of Indian Affairs whereby the BIA would administer these submarginal lands for the "exclusive benefit" of the Indian tribe involved. I would like to emphasize the word "exclusive."

Beginning in 1938, under President Roosevelt's Executive orders, the Indian lands projects were transferred from the jurisdiction of the Department of Agriculture to the Department of the Interior.

Throughout the administration of the Indian submarginal land program, as evidenced by several interagency agreements and correspondence, it was clearly recognized that:

One: The lands were to be administered for the exclusive benefit of the tribes involved and

Two: That it was the intent of the enabling legislation and the administration that legislation would be submitted to the Congress recommending a trust transfer of these lands to the affected Indian tribe.

As a result of a shift in Federal Indian policy toward "termination" in the 1950's, the original intent of the Indian submarginal lands program was abandoned. Not only were the lands no longer administered for the "exclusive benefit" of the tribe, the Department began to exact a fee from the tribes for the use of the lands.

Further, all income from the lands, whether realized by the payment of tribal fees or by lease of surface or subsurface mineral interests to non-Indians, was deposited in the U.S. Treasury, first in special holding accounts and later in the miscellaneous receipts columns.

In 1947, Congress enacted the Mineral Leasing of Acquired Lands Act which governed the mineral leasing of these submarginal lands in addition to other lands acquired by the United States. In a special proviso in that act, it was provided that revenue realized by the United States from mineral leasing of Indian submarginal lands would be paid into a special fund in the Treasury pending final disposition of the funds as determined by the Congress.

The Congress has already passed five acts making trust transfer of submarginal lands to the tribes for whom they were purchased. In 1949 and 1956, Congress enacted legislation transferring complete title, surface and subsurface, to approximately 535,902 acres of submarginal land to seven Pueblo Tribes and to the Canocito Band of Navajo Indians.

It is interesting to note that, in the 1949 Act, all revenue accrued from the leasing of these lands were also transferred to the credit of the tribes.

In 1956 legislation was enacted transferring complete title, surface and subsurface to submarginal lands purchased for the benefit of the Seminole Indians of Florida.

In 1972, Congress enacted legislation transferring the surface interest only to approximately 13,077 acres of submarginal lands purchased for the Stockbridge-Munsee Indians of Wisconsin. In the same year, legislation was enacted transferring complete title, surface and subsurface, to the Burns Paiute Indian Colony approximately 761 acres of submarginal lands.

This provides a brief overview of the history and status of these Indian submarginal lands.

These lands were purchased by the United States for the benefit of the affected tribes. A study of the administration of these lands under the enabling legislation convinces me that they were and are intended for the exclusive benefit of the tribes and that it was always the intent of the legislation and the submarginal lands program that the lands would be transferred in trust for the tribes.

Without the trust title, the Indians cannot make effective use of these lands, and some of the tribes desire to use the lands for housing projects for their members. Without title, that is impossible.

Some of the tribes wish to use the lands for economic development purposes. Lack of title frustrates these plans.

Transfer of the lands would, in some cases, eliminate the checkerboarding of existing reservations or is necessary to supplement an inadequate land base. These were the original purposes of the acquisition of the lands by the United States and these purposes are frustrated by lack of trust title.

The legislation will make that trust transfer and, taken in conjunction with other economic and social programs for Indians, will assist the tribes in achieving a greater degree of self-sufficiency.

The bill provides that all the right, title, and interest of the United States in and to these lands will be held by the United States in trust for the affected tribe. This includes any mineral interest in the land. There is nothing in the record of the acquisition and administration of these lands which indicates that only the surface was to be for the benefit of the tribes. Exclusive benefit could only mean all the interest and value.

The bill would also transfer to the credit of the appropriate Indian tribe any income which has been realized by the United States from the lease of these lands. As I have already indicated, over the period of years that these lands were supposedly being administered for the exclusive benefit of the Indian tribes, the United States has realized approximately \$4 million in revenue.

These revenues were once held in special accounts by the Bureau of Indian Affairs pending a congressional determination of the appropriate disposition. With the shift in policy I have already mentioned, these receipts were deposited in the miscellaneous receipts funds of the Treasury to the credit of the United States.

In addition, since 1947, revenue earned from mineral leases on these lands have been placed in the special treasury fund as required by law.

It is unconscionable that lands which are purchased for the exclusive benefit of Indian tribes in order to bring about the economic and social advancement of the tribes should be used as a revenue-earning source for the United States.

That concludes my testimony. [Laughter.]

Our first witness is Hon. Morris Thompson, Commissioner of the Bureau of Indian Affairs of the Department of Interior. Please come forward. I see you are accompanied by the Deputy Assistant Director for Minerals Management.

Mr. THOMPSON. I also have with me John Gordon, research specialist in the Office of Trust Responsibility, Bureau of Indian Affairs; and Bob Bruce, legislative coordinator of the BIA.

Mr. MEEDS. Please proceed. Welcome, gentlemen.

STATEMENT OF HON. MORRIS THOMPSON, COMMISSIONER, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DWIGHT L. PATTON, DEPUTY ASSISTANT DIRECTOR FOR MINERALS MANAGEMENT, BUREAU OF LAND MANAGEMENT; JOHN GORDON, RESEARCH SPECIALIST, OFFICE OF TRUST RESPONSIBILITY, BIA; AND ROBERT BRUCE, LEGISLATIVE COORDINATOR, BIA

Mr. THOMPSON. Prior to my opening statement I would like to personally comment in commendation of the chairman and the Congressman Risenhoover for going ahead with the hearing this morning.

Indian people have traveled a great distance. We personally want to thank the committee for going ahead with the hearing.

Mr. Chairman, I appreciate the opportunity to appear before you today in support of the transfer of the remaining submarginal land administered for the benefit of Indians to the 17 tribes on or near whose reservations these lands are located.

This transfer will be the fulfillment of long-time desires of these tribes.

A proposed bill, similar to H.R. 5778, has been under consideration within the executive branch for some time and it is this proposed bill that is the subject of our departmental report and my testimony today. I wish to apologize to the subcommittee for our failure to deal directly with H.R. 5778, but the administration was only recently able to come to a consensus on our proposal and we did not have sufficient time to bring H.R. 5778 into conformance with our proposed bill.

Our proposal affects approximately 390,000 acres of federally owned land and would transfer all right, title, and interest of the United States in that land and the improvements thereon, with certain specified reservations, to the 17 enumerated Indian tribes.

All of the land covered by our proposal was acquired as part of a general land acquisition program under title II of the National Industrial Recovery Act and subsequent relief acts.

Our proposal will complete the transfer to Indian tribes of all the land purchased by the United States for the relief of the Indians.

There are two main differences between our proposed bill and H.R. 5778. The first difference is that our proposal does not provide for the depositing of the receipts collected from the land conveyed to the credit of the tribes receiving the land as is provided in section 3 of H.R. 5778.

The second major difference is, our proposal provides for an offset consideration by the Indian Claims Commission in connection with any judgment award made to any of the 17 tribes affected by this bill, a proviso that is not included in H.R. 5778.

Our proposed bill will place in trust status land that was transferred to the Department of the Interior for permanent administration for the exclusive benefit of Indians in the 1930's.

This trust allows the tribes to include the land as part of their overall planning and make the best possible economic use of the land without the possibility that the land will be diverted for some other use. We will assist these tribes in their efforts to make effective use of the land.

In concluding, we want to thank this subcommittee for considering this subject and we hope that we will see a successful conclusion to this 40-year-old program with the Congress authorizing these final tracts of land to be held in trust by the United States for the 17 affected tribes.

This concludes my formal statement. I shall be glad to respond to any questions that you may have.

Mr. MEEDS. Do the people accompanying you have any statement?

Mr. THOMPSON. No, sir.

Mr. MEEDS. Let me say at the outset that I am a little chagrined, to put it mildly, that you do not apply your remarks to the bill under consideration, but to your own bill.

That is delightful. I am happy to see that you have a bill. You can come and tell me about it any time. I would like that. But when we ask

you to come up here and testify about something that we want you to testify about, we don't want you to come up and testify about something you want to testify about.

Is that understood?

Mr. THOMPSON. That is understood.

Mr. MEEDS. I hope we don't have to go through this scenario again.

Mr. THOMPSON. There is a reason for that.

Mr. MEEDS. I understand that you were not formally asked for a report until very recently, but you have known in your Bureau for months and months that we had this bill, that we were working on it, and were preparing to introduce it.

Since the time that we asked you for a report on the bill, you have had time to study it, in terms of your testimony, not your report. I am not complaining about that, and I understand, because of the lateness of our request, your report pertains to something else.

But I am complaining about your coming up here and testifying on another bill and not the one we asked you about. Now do you have some positions you would like to state on that?

Mr. THOMPSON. Yes; Mr. Chairman, if I may. It is explained in several points. We were not able to come up with a final position on H.R. 5778 until very late in the process because of deliberations we had within the administration.

When we did come down with a report on the administration's bill, we did not have time to conform it to H.R. 5778. However, I am pleased to state that our report and the bill as introduced by the committee are very, very similar and hopefully we will resolve it. I think we are in agreement on the major issues but we just did not have time to match our report to the language of H.R. 5778 and for that you have our sincere apologies.

Mr. MEEDS. You mentioned in your testimony that there are certain exceptions. What are those exceptions which you mentioned on page 1 of your testimony?

Mr. THOMPSON. The first is the disposition of the funds. Your bill would transfer the \$3 million—approximately \$3 to \$4 million—over to the Indian communities. The administration has not reached a decision at this time as to the disposition of those funds.

The 1947 act states that they shall remain segregated until Congress disposes of them. We don't have a final position on that as of this moment. We fully recognize that Congress can dispose of them in any manner they see fit. That is the first difference.

The second difference—I think "difference" may not be the proper term here because this one is a minor requirement—we would like Congress to direct the Indian Claims Commission to review these submarginal land transfers as to whether or not an offset should be utilized.

We recognize that that, again, is a difference, if any, between our report and your bill.

Mr. MEEDS. Isn't there some question about the legality of this kind of offset? Don't you have any hesitancy on your recommendation in view of some of the language of the Indian Claims Commission Act? For instance, it says that in returning the problem of relief, the Commission shall pay appropriation production for all other offsets

except that expenditures under any emergency appropriation shall not be offset against such award.

Mr. THOMPSON. Mr. Chairman, what we would propose, notwithstanding that particular position, would authorize the Indian Claims Commission, because of the magnitude of the transfer, to review their act to determine whether an offset should or should not be applicable in this instance.

Mr. MEEDS. You say because of the magnitude of the claim, or of the transfer?

Mr. THOMPSON. Yes; the number of acreage, 317,000 in 17 different tracts.

Mr. MEEDS. Now, did I understand you made some distinction between the funds which accumulated in that special fund prior to 1946 and those which were accumulated after 1946?

Mr. THOMPSON. I did not get the full question.

Mr. MEEDS. When we talked about differences or exceptions, did you make some distinction in funds which were accumulated by these lands and were in special funds for the purpose of those funds before and after 1946?

Did I misunderstand you?

Mr. THOMPSON. There are three basic types of moneys derived from submarginal lands. Currently, the Indian community is leasing these submarginal lands and the tribes derive benefits from those leases. Lease income goes directly to the tribe.

We don't address ourselves to that because that money goes directly to the tribe now.

Mr. MEEDS. Money paid by the tribes for leasing of submarginal lands goes back to the tribe?

Mr. THOMPSON. Yes. The tribe since 1964 has been able to lease submarginal lands to Indian or non-Indian leaseholders. The funds derived from that goes to the tribe.

Mr. MEEDS. That is since 1964?

Mr. THOMPSON. Yes. Our proposal is currently silent on how we would dispose of the \$4 million we are referring to.

Mr. MEEDS. What is your rationale for that, Mr. Commissioner, in view of the fact that, at least to my understanding, those moneys and lands were for the exclusive benefit of the Indian tribes.

Why should not the moneys earned from the land also be for their exclusive benefit?

Mr. THOMPSON. There could be several rationales. If I may, Mr. Chairman, reiterate, the administration has not yet reached a decision on how to dispose of these funds. To be responsive, the rationale could be that there was some question as to how the money should be disposed of, although the law specifically says that Congress has reserved the right to itself to determine the final disposition of the funds.

You could make, I suppose, a reasonable statement that since a segregated fund has been in existence since 1947 there was some doubt as to where the money should go, as the funds have been accruing since 1947 there.

Another possible argument, although I am not advancing it, since title did vest in the United States, the moneys have vested. We

don't want to underline that—Congress does reserve to itself the right to dispose of that fund.

Mr. MEEDS. If we decide we think it should go to the Indian tribes, I assume you would not have any objection?

Mr. THOMPSON. I personally would not have any objection.

Mr. MEEDS. Well, I assume the administration would not have any objection since Congress reserved the right to make that decision.

Mr. THOMPSON. Because, Mr. Chairman, we don't have a final position on that, I can't speak for the administration on that issue. But, we are all cognizant that Congress did reserve the right to itself to dispose of the money.

Mr. MEEDS. What possible objection could you have? Let's explore it. I am now bemused. What objection could you have if Congress reserved the right to make a distribution under its authority and did so? What possible objection could there be to that?

Mr. THOMPSON. There may be two, Mr. Chairman, one that there was a special act set up, that at the time the 1947 set-aside was put into place, there was some doubt on the part of Congress as to where the money should go or there was some doubt in the administration's mind, so therefore a special escrow account was set aside.

Second, again, there is some interest in having the moneys revert to the general treasury because the title did vest with the United States, although I have no problems stating that the lands were reserved exclusively for the Indian communities.

Mr. MEEDS. It is my understanding the funds were originally held in a special account and then finally paid into miscellaneous receipts account of the Treasury.

Why did that happen?

Mr. THOMPSON. I will defer that question to somebody who may know the accounting of the funds a little better than I.

Mr. BRUCE. My name is Bob Bruce. I understand that from 1934 until the 1940's, the funds for grazing, for timber and other income were held in a special account at Treasury but that the Treasury made a ruling that those funds were general income to the United States and at that time those funds moved into the general accounts of the general fund of the Treasury.

At the present time the only income that goes to the general fund of the Treasury would be timber receipts which are not covered by the 1947 segregation.

All other income from surface uses since 1964 go directly to the tribe.

Mr. MEEDS. In any event, it is now possible and at all times has been possible, to segregate these funds, to tell exactly how much they were and from whence they came.

Mr. BRUCE. I think we can tell you exactly how much income has derived from these lands since they were turned over to the Government for the exclusive benefit of Indians.

Mr. MEEDS. That could be segregated as to the specific land? In other words, how much would be due each tribe?

Mr. BRUCE. Yes, sir.

Mr. MEEDS. We have no problem in accounting for this money from 1933 to the present, do we?

Mr. BRUCE. No, sir. I would think we could account for all of it.

Mr. THOMPSON. We would be pleased to submit a breakout of income that currently makes up the total and to the best of our knowledge the sources.

Mr. MEEDS. That will be very helpful. Without objection that will be made part of the record at this point.

[The information follows:]

INCOME FROM SUBMARGINAL LAND

Reservation	Surface rents	Minerals	Timber	Present total of earnings deposited in U.S. Treasury
Bad River.....	\$32.60	0	\$114,364	\$114,396.60
Blackfeet.....	19,957.40	\$64,124.44	0	84,081.84
Lower Brule.....	25,358.20	0	0	25,358.20
Crow Creek.....	30,348.20	0	0	30,348.20
L'Anse.....	5.00	0	32,278	32,283.00
Navajo.....	0	0	0	0
Rosebud.....	75,282.70	22,582.00	0	97,864.70
Cherokee.....	0	0	0	0
Cheyenne River.....	4,418.00	130.00	0	4,548.00
Fort Totten.....	2,318.40	0	0	2,318.40
Fort Belknap.....	43,615.12	118,148.50	0	161,763.62
Pine Ridge.....	85,900.00	29,244.50	0	115,144.50
Standing Rock.....	17,741.72	0	0	17,741.72
Fort Hall.....	10,003.86	5,963.08	0	15,966.94
Fort Peck.....	172,740.92	2,703,720.73	0	876,461.65
White Earth.....	5,154.00	5,085.00	252,631	262,870.00
Lac Courte Oreilles.....	391.00	0	87,879	88,270.00
Total.....	493,267.12	2,948,998.25	487,152	3,929,417.37

Note: The above income compilations were derived from the best available agency and area records. A full audit of all records since 1938 would be necessary before payment is made to the tribes.

Mr. MEEDS. Mr. Risenhoover?

Mr. RISENHOVER. Mr. Commissioner, some over 18,000 acres of these lands are in my district and will revert back to the Cherokee Tribe. I was just noticing in the newspaper this morning where you are going to be out in my district making a speech a week from today. In fact, in my hometown. On behalf of Northeastern State University where you are going to be speaking and the chamber of commerce and those students of mine who live out there, I would like to extend a warm welcome to you and let you know my staff people will be on hand and any help which they can lend while you are there, please avail yourself of it.

Mr. THOMPSON. If I may make a comment at this time, it is normal practice of mine to notify the congressional representatives from every district that I visit, of a pending visit. That is done through our congressional and legislative affairs office.

We had not done that in this instance because I am having some conflicts in making that speech. I now find that a hearing date has been changed to the 1st—originally it again was set for the 30th and 31st—I may not be able to visit your district.

I wanted to assure you we do make contact and we would have done the same with you.

Mr. RISENHOVER. I hope you can make it because it looks like you are the featured speaker of the whole thing.

Just for the record, when was the last time you visited my district?

Mr. THOMPSON. I believe, Mr. Chairman, it was either—excuse me, Mr. Risenhoover, it was either October or November.

Mr. RISENHOOVER. What was the purpose of your visit at that time?

Mr. THOMPSON. It was that I was invited down by some tribes to attend a function and was asked by a Republican candidate from that district to campaign on his behalf. He was an American Indian running for Congress and I undertook that request.

Mr. RISENHOOVER. For the record also—

Mr. MEEDS. What was that? You were campaigning for a political candidate?

Mr. THOMPSON. I was asked by a then opponent of Mr. Risenhoover from that district to do some campaigning. It was done on the weekend. I was out doing some other business relating to my job as a presidential appointee. I am not covered by the Hatch Act and as such can be called on as other presidential appointees are to campaign from time to time.

It was an American Indian running for the post. I felt that such action was within the scope of the broad general charge of furthering the Indian people throughout America, and as such was consistent with what we were doing.

Mr. RISENHOOVER. I am not questioning the legality of your having spoken for that gentleman, but since the Interior Committee is responsible for authorizing appropriations for BIA through the Department of Interior, I have been unable to find anywhere in my opponent's campaign expense reports where the cost of that visit or travel or anything was reported.

I would appreciate it very much if as soon as possible you would let the committee know who took care of that travel and the expenses during the trip that you were out there campaigning.

I understand as a presidential appointee, this is one of your responsibilities, but I would like to know who footed the bill for it.

Mr. THOMPSON. We would be pleased to submit that information for the record.

Mr. RISENHOOVER. If you do get to make this trip out next week which I hope you will and since your job of course deals with solving problems of Indians which is one of the things that you were to speak on at Northeastern State University, I would appreciate it very much if you could find time to take a look at Hastings Hospital which is a Public Health Service facility for taking care of the health needs of the Indians in my district and particularly note the dilapidated, run-down condition of that facility.

If you would, be prepared to come back and testify so that we might be able to divert some of these public works funds that are going to be appropriated to constructing a new hospital there where Hastings is located to better serve those Indians, maybe solve some of the unemployment problems they have and to give the administration's position regarding the possibility of applying funds to relieving that situation.

Also while you are there, if you have a chance or on your next trip, you might take a look at what is happening with the Cherokee Housing Authority which comes under the Cherokee Tribal Government and is responsible for the expenditure of HUD funds and which the administration feels—they tell me—is responsible for those Indian

people not getting any more housing because of what they say is poor management on the part of tribal members of the Cherokee Housing Authority.

You might also while you are there, when you get a chance to look into the problem, find out what has happened with the Cherokee Construction Co. which is also a part of the Cherokee tribal organization and which is, to my understanding, on the verge of bankruptcy and in fact out of business after the expenditure of large amounts of HUD money and which has been termed by the administration to have this same difficulty of poor management.

When you get a chance to go out there, if there isn't a campaign going on, you might see what those Indian people really think. You might also be interested to note what the administration has termed as poor management of this housing situation and poor management as far as the Cherokee Construction Co. is concerned; you might be interested to note my former opponent's association with those two organizations.

Maybe the administration might want to see if they might have reservations about really furthering the cause of the American Indian by supporting particular candidates for public office.

I would appreciate it very much if you would look into these things personally, or at least find out what is going on in that situation and be prepared when you come back before the subcommittee in a capacity relating to these things to answer some of those questions.

The Indian people out there are really not getting what Congress had intended for them to get, nor, I am sure, what the Commissioner intends for them to get in the way of benefits, because some of these problems I mentioned in which the administration has termed "poor management" as the problem.

I am concerned about the problems of those Indian people. It does not make any difference to me whether an American Indian serves in Congress or whether I do as far as seeing that the benefits that those people are supposed to receive, are received.

I would appreciate your attention to these problems.

Mr. MEEDS. Mr. Commissioner, I would like to go back just briefly to these exceptions. I have now found them. They are in your report.

You say in your bill:

Section 1 reserves to the United States the right to use for military purposes any part of the lands that are within the boundaries of Ellsworth Air Force Range, located along the southwestern portion of the Pine Ridge Reservation, South Dakota.

How much land is that?

Mr. THOMPSON. Approximately 20,000 acres.

Mr. MEEDS. Of the total of how much? That is on Pine Ridge?

Mr. THOMPSON. The total is approximately 40,000 acres with the set-aside it comes down to 18,064.40 acres.

Mr. MEEDS. Would you propose to pay for that?

Mr. THOMPSON. Let me defer that question, Mr. Chairman.

Mr. GORDON. My understanding is, Mr. Chairman, that there would be no payment for it. Once it is released from the Government range, it may be repurchased again at the original price plus 6-percent interest annually.

Mr. MEEDS. Repurchased from the Indian?

Mr. GORDON. From the individual it was purchased from originally.

Mr. MEEDS. These submarginal lands were purchased for the "exclusive benefit" of the Indian tribe. How does that benefit the Indian tribe, what you are proposing to do?

Mr. BRUCE. Mr. Chairman, the Congress has passed an act with reference to the gunnery range on that reservation and that act specifically provides that when the Government releases lands from the military purpose, that the previous owners of any land within the boundaries of that range will be given first option to repurchase the land plus interest on the money up to the date of the purchase.

After that, the Indian tribes will be given a preference. But, that is an act of Congress now on the books.

Mr. MEEDS. The Federal Government already owns the land. It was submarginal land purchased by the Federal Government from individuals for the exclusive benefit of the Indians.

Mr. BRUCE. That is correct, sir.

Mr. MEEDS. How could they repurchase it if they already owned it?

Mr. BRUCE. The way we interpret that act, the individual who owned that land in 1934 when the Government purchased it from him would have the opportunity to have first option to purchase that land back.

Mr. MEEDS. I guess we are not communicating. I do not understand how you purchase land that you already own. The Federal Government owned this land, did it not, in 1934 and 1935? It purchased this land?

Mr. BRUCE. It purchased the land from an individual.

Mr. MEEDS. All right.

Then it later used that land for military purposes?

Mr. BRUCE. It was reserved for military purposes.

Mr. MEEDS. Reserved for military purposes.

Are you telling me it repurchased the land again at that time?

Mr. BRUCE. Due to conflicts arising with the gunnery range, Congress passed an act saying that anytime the land contained within the gunnery range is released from military purposes, the individuals who owned the land would be given an opportunity to purchase it at the price at which it was purchased plus interest.

Mr. MEEDS. Could you give us the reference to the Congressional act to which you are referring?

Mr. BRUCE. I do not have it with me.

Mr. MEEDS. Would you furnish that?

Mr. BRUCE. Yes, sir.

[The information follows:]

There is enclosed a copy of the Act of August 8, 1968 (82 Stat. 663; 16 U.S.C. 441j-o), which includes provisions for repurchase by former owners of lands within the Pine Ridge gunnery range.

Section 3 of the Act authorizes former owners, both Indian and non-Indian, to purchase certain lands within the gunnery range formerly owned by them. Section 4 authorizes some Indians to make selections of submarginal lands for purchase when the lands formerly owned by them cannot be repurchased under the provisions of the Act. As of February 13, 1975, much of the submarginal land had been selected for purchase, decreasing the original acreage of 46,140.62 to a present figure of 16,842.48. There are 17 in lieu selection cases still pending and it is possible that one or more of the parties involved may elect to purchase some of the submarginal land. In addition, section 5 of the Act authorizes an exchange

between the United States and the tribe whereby the tribe may obtain title to the remaining submarginal lands.

The regulations implementing the resale provisions of the Act are set out in 25 CFR 257.1-9.

PUBLIC LAW 90-468

AN ACT To revise the boundaries of the Badlands National Monument in the State of South Dakota, to authorize exchanges of land mutually beneficial to the Oglala Sioux Tribe and the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to include lands of outstanding scenic and scientific character in the Badlands National Monument, the boundaries of the monument are revised as generally depicted on the map entitled "Badlands National Monument", numbered NM-BL-7021B, dated August 1967, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may make minor adjustments in the boundaries, but the total acreage in the monument may not exceed the acreage within the boundaries depicted on the map referred to herein. Lands within the boundaries of the monument that are acquired by the United States shall be subject to the laws and regulations applicable to the monument.

SEC. 2. (a) Subject to the provisions of subsection (b) hereof, the Secretary of the Interior may, within the boundaries of the monument, acquire lands and interest in lands by donation, purchase with donated or appropriated funds, or exchange, except that any lands or interest in lands owned by the State of South Dakota, a political subdivision thereof, or the Oglala Sioux Tribe of South Dakota may be acquired only with the consent of owner. Notwithstanding any other provision of law, lands and interests in lands located within the monument under the administrative jurisdiction of any other Federal agency may be transferred to the administrative jurisdiction of the Secretary without a transfer of funds.

(b) As to lands located within the boundaries of the monument but outside the boundaries of the gunnery range referred to in section 3 hereof, the Secretary of the Interior may acquire only rights-of-way and scenic easements.

SEC. 3. Inasmuch as (A) most of the lands added to the Badlands National Monument by section 1 of this Act are inside the boundaries of the Pine Ridge Sioux Indian Reservation, (B) such lands are also within a tract of land forty-three miles long and twelve and one-half miles wide which is in the northwestern part of such Indian reservation and has been used by the United States Air Force as a gunnery range since the early part of World War II, (C) the tribal lands within such gunnery range were leased by the Federal Government and the other lands within such gunnery range were purchased by the Federal Government from the individual owners (mostly Indians), (D) the Department of the Air Force has declared most of such gunnery range lands excess to its needs and such excess lands have been requested by the National Park Service under the Federal Property and Administrative Services Act of 1949, (E) the leased tribal lands and the excess lands within the enlarged Badlands National Monument are needed for the monument, (F) the other excess lands in such gunnery range should be restored to the former Indian owners of such lands, and (G) the tribe is unwilling to sell its tribal lands for inclusion in the national monument, but is willing to exchange them or interests therein for the excess gunnery range lands, which, insofar as the lands within the gunnery range formerly held by the tribe are concerned, should be returned to Indian ownership in any event, the Congress hereby finds that such exchange would be in the national interest and authorizes the following actions:

(a) All Federal lands and interests in lands within the Badlands Air Force gunnery range that are outside the boundaries of the monument and that heretofore or hereafter are declared excess to the needs of the Department of the Air Force shall be transferred to the Administrative jurisdiction of the Secretary of the Interior without a transfer of funds.

(b) Any former Indian or non-Indian owner of a tract of such land, whether title was held in trust or fee, may purchase such tract from the Secretary of the Interior under the following terms and conditions:

(1) The purchase price to a former Indian owner shall be the total amount paid by the United States to acquire such tract and all interests therein, plus interest thereon from the date of acquisition at a rate determined by the Secretary of the Treasury taking into consideration the average market yield

of all outstanding marketable obligations of the United States at the time the tract was acquired by the United States, adjusted to the nearest one-eighth of 1 per centum. The purchase price to a former non-Indian owner shall be the present fair market value of the tract as determined by the Secretary of the Interior.

(2) Not less than \$100 or 20 per centum of the purchase price, whichever is less, shall be paid at the time of purchase, and the balance shall be payable in not to exceed 20 years with interest at a rate determined by the Secretary of the Treasury taking into account the current average market yield on outstanding marketable obligations of the United States with twenty years remaining to date of maturity, adjusted to the nearest one-eighth of 1 per centum.

(3) Title to the tract purchased shall be held in trust for the purchaser if it was held in trust status at the time the tract was acquired by the United States; otherwise, the title to the tract purchased shall be conveyed to the purchaser subject to a mortgage and such other security instruments as the Secretary deems appropriate. If a tract purchased under this subsection is offered for resale during the following ten-year period, the tribe must be given the first right to purchase it.

(4) The unpaid balance of the purchase price shall be a lien against the land if the title is held in trust and against all rents, bonuses, and royalties received therefrom. In the event of default in the payment of any installment of the purchase price the Secretary may take such action to enforce the lien as he deems appropriate, including foreclosure and conveyance of the land to the Oglala Sioux Tribe.

(5) An application to purchase the tract must be filed with the Secretary of the Interior within one year from the date a notice is published in the Federal Register that the tract has been transferred to the jurisdiction of the Secretary.

(6) No application may be filed by more than five of the former owners of an interest in the tract. If more than one such application is filed for a tract the applicants must agree on not more than five of the former owners who shall make the purchase, and failing such agreement all such applications for the tract shall be rejected by the Secretary.

(7) "Former owner" means, for the purposes of subsection (b) of this section, each person from whom the United States acquired an interest in the tract, or if such person is deceased, his spouse, or if such spouse is deceased, his children.

Sec. 4. (a) All Federal lands and interests in lands within the Badlands Air Force gunnery range that are outside the boundaries of the monument, and that have been declared excess to the needs of the Department of the Air Force, and that are not purchased by former owners under section 3(b), and all lands that have been acquired by the United States under authority of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief Acts, situated within the Pine Ridge Indian Reservation, administrative jurisdiction over which has heretofore been transferred by the President from the Secretary of Agriculture to the Secretary of the Interior by Executive Order Numbered 7868, dated April 15, 1938, shall be subject to the following provisions of this section.

(b) Any former Indian owner of land that is within the Badlands Air Force gunnery range and outside the boundaries of the monument and that has not been declared excess to the needs of the Department of the Air Force on the date of the enactment of this Act may, within the period specified in section 3(b)(5), elect (i) to purchase an available tract of land described in section 4(a) of substantially the same value, or (ii) to purchase the tract formerly owned by him at such time as such tract is declared excess and transferred to the Secretary of the Interior as provided in section 3(a).

(c) Any former Indian owner of a tract of land within the boundaries of the monument that was acquired by the United States for the Badlands Air Force gunnery range, and that is transferred to the Secretary of the Interior pursuant to section 2 of this Act, may, within the period specified in section 3(b)(5), elect (i) to acquire from the Secretary of the Interior a life estate in such tract at no cost, subject to restrictions on use that may be prescribed in regulations applicable to the monument, or (ii) to purchase an available tract of land described in section 4(a) of substantially the same value.

(d) Purchases under subsection (b) and clause (ii) of subsection (c) of this section shall be made on the terms provided in section 3(b).

SEC. 5. (a) Title to all Federal lands and interests in lands within the boundaries of the Badlands Air Force gunnery range that are outside the boundaries of the monument, and that are transferred to the administrative jurisdiction of the Secretary of the Interior as provided in section 3(a), including lands hereafter declared to be excess, and that are not selected under sections 3(b) or 4, and title to all lands within the boundaries of the monument that were acquired by the United States for the Badlands Air Force gunnery range, subject to any life estate conveyed pursuant to section 4(c) and subject to restrictions on use that may be prescribed in regulations applicable to the monument, which regulations may include provisions for the protection of the black-footed ferret, may be conveyed to the Oglala Sioux Tribe in exchange (i) for the right of the United States to use all tribal land within the monument for monument purposes, including the right to manage fish and wildlife and other resources and to construct visitor use and administrative facilities thereon, and (ii) for title to three thousand one hundred fifteen and sixty-three one-hundredths acres of land owned by the Oglala Sioux Tribe and located in the area of the Badlands Air Force gunnery range which is not excess to the needs of the Department of the Air Force and which is encompassed in civil action numbered 859 W.D. in the United States District Court for the District of South Dakota, if such exchange is approved by the Oglala Sioux Tribal Council. The lands acquired under paragraph (ii) shall become a part of the Badlands Air Force gunnery range retained by the Department of the Air Force. The United States and the Oglala Sioux Tribe shall reserve all mineral rights in the lands so conveyed. The right of the United States to use for monument purposes lands that were tribally owned prior to the date of this Act shall not impair the right of the Oglala Sioux Tribe to use such lands for grazing purposes and mineral development, including development for oil and gas.

(b) The Oglala Sioux Tribal Council may authorize the execution of the necessary instruments to effect the exchange on behalf of the tribe, and the Secretary may execute the necessary instruments on behalf of the United States.

(c) After the exchange is effected the title of the Oglala Sioux Tribe to the property acquired by the exchange shall be held in trust subject to the same restrictions and authorities that apply to other lands of the tribe that are held in trust.

SEC. 6. The Oglala Sioux Tribe may convey and the Secretary of the Interior may acquire not to exceed forty acres of tribally owned lands on the Pine Ridge Indian Reservation for the purpose of erecting thereon permanent facilities to be used to interpret the natural phenomena of the monument and the history of the Sioux Nation: *Provided*, That no such conveyance shall be made until sixty days after the terms thereof have been submitted to the Interior and Insular Affairs Committees of the House of Representatives and the Senate.

Approved August 8, 1968.

PART 257—RESALE OF LANDS WITHIN THE BADLANDS AIR FORCE GUNNERY RANGE (PINE RIDGE AERIAL GUNNERY RANGE)

Sec.

- 257.1 Purpose.
- 257.2 Definitions.
- 257.3 Eligibility to purchase.
- 257.4 Notice to former owners.
- 257.5 Special notice to former Indian owners.
- 257.6 Applications by former owners.
- 257.7 Conveyance documents.
- 257.8 Selection of lieu lands.
- 257.9 Lands formerly held subject to restrictions against alienation.

AUTHORITY: The provisions of this Part 257 issued under 5 U.S.C. 301, R.S. 463 and 465; 25 U.S.C. 2; 16 U.S.C. 3; 82 Stat. 663.

SOURCE: The provisions of this Part 257 appear at 34 F.R. 9985, June 28, 1969, unless otherwise noted.

§ 257.1 Purpose

The regulations in this part govern the reacquisition by former Indian and non-Indian owners of lands, or interests therein, acquired by the United States of America as a part of the Badlands Air Force Gunnery Range, sometimes referred

to and known as the Pine Ridge Aerial Gunnery Range. The regulations also govern the acquisition by former Indian owners of life estates in national monument lands formerly owned by them and the acquisition of lieu lands when lands formerly owned by them are not available or are not desired by them for reacquisition. The legislative authority for reacquisition of lands or interests therein by former owners is the Act of August 8, 1968 (Public Law 90-468; 82 Stat. 663).

§ 257.2 *Definitions*

(a) "Secretary" means the Secretary of the Interior or his duly authorized representative.

(b) "Superintendent" means the officer in charge of the Pine Ridge Indian Agency, Pine Ridge, S. Dak.

(c) "Act" means the Act of August 8, 1968 (Public Law 90-468; 82 Stat. 663).

(d) "Gunnery Range" means the area on the Pine Ridge Indian Reservation in South Dakota that was acquired by the United States for use of the Air Force commonly known as the Pine Ridge Aerial Gunnery Range or the Badlands Air Force Gunnery Range.

(e) "Monument" means the Badlands National Monument as enlarged by section 1 of the Act of August 8, 1968 (Public Law 90-468).

(f) "Tribe" means the Oglala Sioux Tribe of Indians of South Dakota.

§ 257.3 *Eligibility to purchase*

(a) Any former owner of a tract of land or interest in a tract of land, whither title was held in trust or in fee, which was acquired by the United States as a part of the Gunnery Range may purchase such tract pursuant to the provisions of the Act and the regulations set forth in this part: *Provided*, Said tract has been declared excess to the needs of the Department of the Air Force, has been transferred to the administrative jurisdiction of the Secretary of the Interior, and is not within the boundaries of the Monument or within that portion of the Gunnery Range retained for use of the Department of the Air Force.

(b) If a former owner is deceased and is survived by a spouse, the spouse may purchase under the same terms and conditions as the former owner except that if the former owner was an Indian whose land was held in trust and his surviving spouse is a non-Indian, the title to said tract shall be conveyed to the non-Indian spouse in a fee simple status.

(c) If the former owner is deceased and the spouse is also deceased, the children of the former owner may repurchase the tract.

(d) If the former owner is not survived by a spouse or children there exist no repurchase rights involving the tract.

(e) Not more than five former owners may join in purchasing a tract of land. "Former owner" means each person from whom the United States acquired an interest in a tract of land, or if such person is deceased, the surviving spouse, or if such spouse is deceased, his children. If more than five former owners apply to acquire a tract, the Superintendent shall notify them in writing that it will be necessary for them to agree among themselves as to the five or less of them who shall acquire the tract. If agreement among the owners is obtained, those individuals who are to acquire the tract shall then file an application to purchase it. The matter of reaching agreement among the owners is the sole responsibility of said owners and not the responsibility of the Department of the Interior and/or the Bureau of Indian Affairs to participate in the negotiations between the owners. If the former owners fail to reach such an agreement, all applications for the tract shall be rejected.

§ 257.4 *Notice to former owners*

After publication of these regulations, there shall be published in the Federal Register notice that certain described lands and interests in lands have been transferred to the administrative jurisdiction of the Secretary and are available for repurchase by the former owners pursuant to section 3(b) of the Act. Upon transfer of administrative jurisdiction over lands that may thereafter be declared excess to the needs of the Department of the Air Force and acceptance by the Secretary, notice of such transfer shall be published in the Federal Register. No attempt shall be made to notify each individual former non-Indian owner personally, but the transfer of jurisdiction to the Secretary may be further publicized by the publishing of notice in a local newspaper of general circulation.

§ 257.5 *Special notice to former Indian owners*

(a) The Superintendent shall notify the former Indian owners, in writing, at their last known addresses of their right to repurchase the tracts formerly owned by

them in those instances where the tracts are outside of the boundaries of the Monument and are outside of the boundaries of the area of the Gunnery Range retained by the Department of the Air Force. Such notice shall include (1) the legal description, (2) the purchase price thereof, (3) the minimum amount of down payment required, (4) a recital that balance of purchase price may be paid in 20 annual installments, (5) the annual rate of interest on unpaid balance, (6) information whether title is to be taken in trust or in fee, and (7) the date by which the executed application to purchase must be received in the office of the Superintendent. A form of application for execution by the former owners shall accompany said notice, said application to include the legal description of the land, purchase price and other pertinent information.

(b) In those instances where the tracts of land or portions thereof are within the boundaries of the area of the Gunnery Range retained by the Department of the Air Force, the Superintendent shall notify the former Indian owners, in writing, at their last known addresses that they may elect to purchase available tracts of land in lieu of the lands formerly owned by them, said lieu lands to be of substantially the same value as the tracts originally owned by them. Such notice shall also advise said former owners that they may, as an alternative, elect to purchase the tracts formerly owned by them at such time as the tracts may be declared excess to the needs of the Department of the Air Force and transferred to the Secretary of the Interior. As to this alternative, no promise or prediction may be made as to when, or whether, the land may eventually become surplus to the needs of the Department of the Air Force, and the notice shall specifically so state. Such notice shall include (1) the legal description of the lands formerly owned by them (2) the purchase price of the lieu land which price shall be computed on the same basis as though the original tract were available, (3) the minimum amount of down payment required, (4) a recital that balance of purchase price may be paid in 20 annual installments, (5) the annual rate of interest on unpaid balance, (6) information whether title is to be taken in trust or in fee, and (7) the date by which election to purchase lieu lands or wait until lands formerly owned by them are declared excess must be received in the office of the Superintendent. The notice shall be accompanied by a form for execution by the former owner whereby said owner elects to purchase lieu lands or to repurchase the tract formerly owned by said owner when it is declared excess.

(c) In those instances where a tract of land or portion thereof is within the boundaries of the Monument, the Superintendent shall notify the former Indian owner, in writing, at his last known address that he may elect to acquire a life estate in such tract or portion thereof at no cost but subject to the restrictions on use referred to under "Conveyance Documents" (section 257.7). Such notice shall include the legal description of the lands formerly owned by him upon which he may acquire a life estate. The notice shall also inform the former owner that he may elect to purchase any available tract of land in lieu of the lands formerly owned by him, said lieu lands to have substantially the same values as the tract originally owned by him. Such notice shall include (1) the purchase price of the lieu land which price shall be computed on the same basis as though the original tract were available for purchase, (2) the minimum amount of down payment required, (3) a recital that balance of purchase price may be paid in 20 annual installments, (4) the annual rate of interest on unpaid balance, (5) information whether title is to be taken in trust or in fee, and (6) the date by which the election to acquire the life estate or lieu lands must be received in the Office of the Superintendent. Such notice shall be accompanied by a form for execution by the former owner whereby said owner elects to acquire a life estate in the lands formerly owned by said owner or elects to purchase lieu lands.

§ 257.6 Applications by former owners

(a) Applications by former Indian owners to purchase lands formerly owned by them, or to purchase lieu lands, or to take a life estate in a tract of land within the Monument area should be made on forms furnished by the Superintendent and filed within the period specified in section 3(b)(5) of the Act. Such applications shall be filed in the Office of the Superintendent.

(b) A former non-Indian owner may file application to purchase land pursuant to subsection 3(b) of the Act within 1 year from the date notice is published in the FEDERAL REGISTER that the land he formerly owned has been declared excess to the needs of the Department of the Air Force and has been transferred to the Secretary. Such application shall be filed in the Office of the Superintendent. The applicant shall furnish proof of his ownership or the ownership of his predecessor in interest at the time of the acquisition of the land by the United States. Upon

receipt of an application to purchase and proof of ownership the Superintendent shall cause the land to be appraised and thereafter he shall inform the applicant in writing of the fair market value of the tract which shall be the purchase price, the minimum amount of down payment required, that the balance of the purchase price may be paid in 20 annual installments, and the annual rate of interest on the unpaid balance.

§ 257.7 Conveyance documents

(a) Where there is an election by a former Indian owner of a tract of land within the Monument boundary to acquire a life estate in such tract at no cost the following types of provisions and restrictions shall be applicable to the use thereof: (1) Agricultural uses are permitted. Only those commercial activities associated with normal agricultural operations would be allowed. (2) Construction or reconstruction of any roads to the property, including locations and materials used, are subject to approval by the National Park Service. (3) Mining activities of all kinds are prohibited inasmuch as the United States retains all mineral rights. (4) Residential and other facilities necessary for, or incidental to, ranching and other agricultural purposes are permitted. This includes, but is not limited to, barns, sheds, fences, stock dams, wells utilizing surface or subsurface water, and other needed access accessory structures. (5) The cutting of native trees, except for firewood for the personal use of the grantee, his family or assignee, is prohibited unless determined by the National Park Service to be essential to the permitted use of the tract. (6) All improvements and structures are subject to removal upon termination of the life estate or they shall be deemed to become the property of the United States.

The family or assignee of the grantee shall have a reasonable time to vacate the premises upon termination of the life estate and may harvest annual crops planted during the tenure of the estate. (7) Water rights owned by the United States in the premises remain vested in the United States, but the grantee has a right to reasonable use of the water. (8) Grantee must observe and adhere to all applicable Federal, State, and local laws and regulations, including Federal laws and regulations for the protection of the black-footed ferret and other wildlife in the Monument. The United States reserves the right to enter upon the conveyed lands to assure such compliance and for the exercise of any other rights and privileges reserved to it. (9) The conveyed premises must be kept in a neat and orderly condition and no waste or injury may be committed to the land. Pollution of water on or adjacent to the property is prohibited. (10) Reasonable precautions must be taken to prevent, suppress, and extinguish forest, brush, grass, and other fires on the property. (11) Grantee may not claim damages for injury by or against the United States which might be directly attributable to existence of the Monument. (12) Other provisions deemed necessary by the National Park Service in individual circumstances may be included in the conveyance document.

(b) When title to the land being acquired is to be taken in trust for the purchaser and the purchase is effected by deferred payments as authorized in section 3(b)(2) of the Act, a sale contract shall be executed by the purchaser and the Secretary. The down payment shall be not less than \$100 or 20 per centum of the purchase price, whichever is less. The purchaser shall be entitled to a credit of a pro rata share of the grazing fees collected by the United States for use of the land during the grazing year in which the sale contract is executed, which credit shall be applied as all or a part of the down payment for the land being purchased. In the event the proportionate share of the grazing fees credited to the purchaser is less than the required down payment, the purchaser shall pay the balance of the down payment in cash, or by certified check, cashier's check, money order, or U.S. Treasury check, payable to the Bureau of Indian Affairs at the time the sale contract is executed.

Upon execution of the contract by the Secretary, a deed shall be prepared and executed by the Secretary conveying title to the land to the United States in trust for the purchaser. When the sale contract and deed are executed, the balance of the proportionate share of the grazing fees, if any, due the purchaser shall be paid to him and the down payment shall be deposited in the U.S. Treasury to the credit of the United States as general fund receipts. All subsequent installment payments shall be deposited in a like manner to the credit of the United States. The sale contract shall include (1) the legal description of the land, (2) the purchase price, (3) the amount of down payment, (4) the amount of annual principal installment payments, (5) the annual rate of interest on unpaid balance, (6) the due dates of annual installments, (7) a recital that the unpaid balance is a lien against the land and against all rents, bonuses and royalties received therefrom, (8) a recital that a

delinquency of 90 days in making annual installment payments will subject the contract to foreclosure with loss of all payments theretofore made thereon, and (9) a recital that upon payment being made in full the deed to the United States in trust for the purchaser will be delivered to the purchaser.

(c) If title to the tract is acquired in a trust status and full payment therefor is made by the purchaser at the time the application for purchase is approved, the title shall be conveyed to the United States of America in trust for the purchaser by a deed executed by the Secretary.

(d) If the purchaser is to acquire the tract in a fee status and the purchase is effected by deferred payments as authorized in section 3(b)(2) of the Act, the title shall be conveyed to the purchaser in a fee status by a deed executed by the Secretary. The purchaser shall execute a mortgage naming the United States as mortgagee and shall execute promissory notes for the annual installment payments with the annual rate of interest set forth therein. The deed and mortgage shall be recorded in the office of the register of deeds of the county in which the land is situated, the recording costs to be borne by the purchaser. Upon payment of the full amount of the mortgage a satisfaction of mortgage shall be executed by the Secretary and delivered to the purchaser who shall be responsible for recordation thereof in the office of the register of deeds.

(e) If the purchaser is to acquire the tract in a fee status and full payment therefor is made by the purchaser at the time the application for purchase is approved, the title shall be conveyed to said purchaser in a fee status by a deed executed by the Secretary. The purchaser shall be responsible for recordation of the deed in the office of the register of deeds of the county in which the land is situated.

(f) Each deed executed pursuant to paragraphs (c), (d), and (e) of this section shall contain a provision that if the tract is offered for sale by the purchaser within a period of 10 years from the date of said deed, the tribe shall be notified in writing that the tract is being offered for sale and of the terms of the offer and said tribe shall have a period of 60 days to exercise a right of first refusal to purchase such tract upon the terms set forth in the notice.

(g) All sale documents referred to in this section shall be recorded in the office of the Bureau of Indian Affairs having custody of the land title records of the Pine Ridge Indian Reservation pursuant to Part 120, Title 25, Code of Federal Regulations.

§ 257.8 *Selection of lieu lands*

(a) Lieu lands which may be selected for purchase by former Indian owners whose lands are within the boundaries of the area retained for use by the Department of the Air Force or are within the boundaries of the Monument are defined as (1) those lands heretofore acquired by the United States for use of the Air Force Gunnery Range which are outside the boundaries of the Monument and outside the boundaries of the area retained for use by the Department of the Air Force which are not selected for repurchase by former owners within 1 year from date of publication of the notice prescribed in section 3(b)(5) of the Act, and (2) all of the submarginal lands acquired by the United States under authority of the National Industrial Recovery Act of 1933 and subsequent relief acts, within the Pine Ridge Indian Reservation, except those submarginal lands within the area retained for use by the Department of the Air Force or within the Monument, administrative jurisdiction over which was transferred to the Secretary of the Interior by Executive Order No. 7368, dated April 15, 1938.

(b) The former Indian owners whose lands are within the boundaries of the area retained for use by the Department of the Air Force or are within the boundaries of the Monument may elect to purchase lieu lands of substantially the same value pursuant to section 4(b) and section 4(c) of the Act. Inasmuch as identification of all of the lands from which lieu selections may be made cannot be determined until the time has expired for former owners of lands outside of the area used by the Department of the Air Force and outside the boundaries of the Monument to purchase the tracts formerly owned by them, former owners who have filed an election to purchase lieu lands within 1 year from the date of publication of the notice prescribed in section 3(b)(5) of the Act, shall be deemed to have filed a timely application to purchase notwithstanding the fact that a specific tract of land has not been designated in said election.

(c) Upon the expiration of 1 year from date of publication of the notice prescribed in section 3(b)(5) of the Act, the Superintendent shall prepare a complete list of all lands available from which selections of lieu lands may be made. The Superintendent shall also prepare a list of all former owners who elected to pur-

chase lieu lands, numbering them consecutively without regard as to date of receipt of such election. The numbers shall then be placed on separate uniform slips of paper and placed in a bowl. The numbers will then be withdrawn from the bowl and a record made of the order in which they were withdrawn. The owner of the first number withdrawn shall be afforded the first opportunity to select lieu lands. The owners of lands represented by the following numbers will be afforded an opportunity to select lieu lands in the priority in which their numbers were drawn.

(d) When all selections of lieu lands have been made as provided in paragraph (c) of this section, the Secretary shall determine the comparability of the lands originally owned and the lieu selections. If the lieu selections are not substantially the same value as the lands originally owned, the owners shall be afforded an opportunity to make other selections which are substantially the same value.

(e) To determine whether the former Indian owned land and the selected lieu land in each case are of substantially the same value, the consideration paid by the United States for each tract may be accepted as indicative of the value of each tract at the time it was acquired. If information as to the price paid for any specific tract is not available, or if for any reason it is concluded that the consideration paid by the United States for the land is not acceptable evidence as to value for this purpose, the Secretary shall cause the tracts to be appraised to determine their comparability. The appraisals of lands shall be made on the basis of current market values. The lands shall be considered to be substantially the same value if the differences in values do not exceed 10 percent of the greater value.

§ 257.9 *Lands formerly held subject to restrictions against alienation*

Former Indian owners who held title to the lands which were acquired for the gunnery range subject to restrictions against alienation without the approval of the Secretary of the Interior shall be conveyed title to the reacquired lands in a trust status in the same manner as though they had held trust title to the lands taken.

Mr. MEEDS. The next exception that you mention is:

Section 1 also reserves to the United States the right to flood and restrict the use of lands within the Bad River Flood Control Project, Wisconsin. The proviso of section 1 excepts from the provision of the bill any of the lands or any interests therein that are needed for authorized water resource development in the Missouri River Basin.

The fact is, that has already been flooded for some years, has it not?

Mr. GORDON. That is correct.

Mr. MEEDS. Is that flooding for the exclusive benefit of the Bad River Tribe?

Mr. GORDON. That flooding was not for the exclusive benefit of the Tribe. It was part of the Missouri River project.

Mr. MEEDS. Did the BIA protest such a flooding and make some fight to prevent it being flooded or at least ask for some payment on behalf of the Indian tribe? Is there any record of that?

Mr. THOMPSON. Mr. Chairman, we may have a record I am unaware of. I do not have the facts before me. I would be pleased to search that out on behalf of the committee and submit it for the record.

I just do not know what the position of the Bureau was at that time.

Mr. MEEDS. Wouldn't you agree with me that if the lands were to be used for the exclusive benefit of the Indian tribes and they were flooded and it wasn't for the exclusive benefit of the Indian tribe, that the BIA as trustee for Indian tribes should make some kind of protest?

Mr. THOMPSON. It would seem like a logical argument, but I do not have that before me.

Mr. MEEDS. Would you search your records and see if there is any indication of protest and also indicate to the committee, if you can, working with BLM, what portion of the benefits derived from that

flooding actually goes to the Bad River Tribe of Indians that is entitled to the exclusive benefit of that particular land?

Mr. THOMPSON. I will be pleased to, Mr. Chairman.

[The information follows:]

We have been unable to identify any record of Departmental protection of submarginal lands interest in Corps of Engineers' projects involving the Bad River Reservation and Indian reservations on the Missouri River. As the title to the submarginal land was in the United States with the tribes having only a use right, in our judgment, their interests did not require the protection normally exercised with respect to trust or restricted land interests.

We are not aware of any specific benefits that were derived by the tribes as a result of the flooding or taking of the submarginal lands.

Mr. MEEDS. Then, the third exception that I see here—how many flood control projects are we talking about that you are excepting?

Mr. GORDON. We are talking about five. They are all part of the Missouri River project.

Mr. MEEDS. Are there any other exceptions that you are talking about now?

Mr. GORDON. No exceptions—

Mr. MEEDS. Pardon me. You do have some exceptions for individuals. In section 3 of your bill you talk about exceptions for individuals, existing rights which individuals may have. Can you give me some example of what you are talking about here?

Mr. GORDON. Recently there was 80 acres returned to a private individual by act of Congress.

Mr. MEEDS. Where was that?

Mr. GORDON. That was at Bad River.

Mr. MEEDS. How recently?

Mr. GORDON. During the 93d Congress. I believe it was signed January 2, 1974.

Mr. MEEDS. Would you furnish us a list of all those exceptions that you are talking about here?

Mr. THOMPSON. We would be pleased to, Mr. Chairman.

Mr. MEEDS. Let's assume that the bill should pass and there was a transfer of the lands. What will happen to the revenue from the existing mineral leases under your proposal?

Mr. THOMPSON. Once the tribe or the group retained surface and subsurface ownership, the funds derived from those leases would revert to the tribe.

Mr. MEEDS. The premise for that concept would be that they do not at this time have subsurface rights, is that correct?

Mr. THOMPSON. Well, the problem, of course, is the moneys derived from mineral development on these lands going into that special account.

When we transfer the surface and subsurface to the tribe, the moneys thereafter derived will go to the tribe.

Mr. MEEDS. Some of the submarginal land you indicate have already been transferred to municipalities through sales and grants. Can you determine the conditions under which they were transferred?

Mr. THOMPSON. We do not have a listing here to submit for the record now of the submarginal lands that did go to municipalities.

Mr. MEEDS. Submit to us for the record—and without objection this will appear at this point in the record—the individual transfers of these submarginal lands to any municipalities or States, the terms

and conditions under which the transfers were made and what, if anything, was done with the income derived, if any, from those transfers.

[The information follows:]

The following information was provided by Department of Agriculture sources:

State and town	Acreage	Date
Arkansas: Eureka Springs.....	1,610.0	Apr. 11, 1955
Kansas:		
Elkhart.....	152.0	Sept. 26, 1956
Morton.....	8.3	Sept. 26, 1972
Maine: (11 towns in Maine).....	3,720.0	1955
New Mexico: Glorieta.....	3,120.0	Aug. 17, 1954
Tennessee: Bristol.....	1,212.0	May 26, 1972
Total acreage.....	9,822.3	

The land was transferred subject only to a public use clause. There was no indication of any income being involved in the transfers.

We do not have available a list of the individual rights on submarginal lands protected by section 3 of the Department's proposed bill. This section was designed to protect all existing valid rights of individuals who may be occupying or using portions of such lands. Such rights would include, but not be limited to the following: Oil and gas or other mineral leases or permits, use permits by tribal and agency officials for farming, grazing, or homesite purposes, timber contracts, and easements for road rights-of-way, pipelines, etc.

Mr. MEEDS. Thank you very much, Mr. Commissioner.

Our next witness is Charles Trimble, executive director of the National Congress of American Indians.

Please come forward.

STATEMENT OF CHARLES TRIMBLE, EXECUTIVE DIRECTOR OF THE NATIONAL CONGRESS OF AMERICAN INDIANS, ACCOMPANIED BY WILLIAM BUCHOLZ, ADMINISTRATIVE ASSISTANT

Mr. TRIMBLE. Mr. Chairman, this is William Bucholz who is my administrative assistant.

Mr. MEEDS. Please proceed. I see you have a prepared statement.

Mr. TRIMBLE. Mr. Chairman, my name is Charles Trimble, executive director of the National Congress of American Indians, the Nation's oldest and largest national tribal organization.

For the officers and member tribes of NCAI, I am here to testify in favor of H.R. 5778:

A bill to declare that certain submarginal land of the United States shall be held in trust for certain Indian Tribes and be made a part of the Reservations of said Indians, and for other purposes.

H.R. 5778 proposes that:

Subject to all valid existing rights, all the right, title and interest of the United States in the land enumerated—and the improvements thereon, that were acquired under Title II of the National Industrial Recovery Act of June 16, 1933, The Emergency Relief Appropriations Act of April 8, 1935, and Section 55 of the Act of August 24, 1935, and that are now administered by the Secretary of the Interior for the benefit of the * * * Tribes are hereby declared to be held by the United States in trust for each said Tribe and shall be a part of the Reservations heretofore established for each said Tribe.

Section 3 proposes that:

Any and all receipts received prior to the date of enactment of this Act by the United States from whatever source and for whatever purpose which directly relate to any land conveyed by the Act, whether such receipts are in a special fund of the Treasury as required by Section 6 of the Act of August, 1947, or not, shall on the date of enactment of this Act be deposited to the credit of the Indian Tribe receiving such land and may be expended by the Tribe for such beneficial programs as the Tribal governing body may determine.

Mr. Chairman, for the tribes, I commend you and your colleagues, Representatives Young, Risenhoover, Bergland, Obey, Jones of Oklahoma, Andrews, Lujan, and Ruppe for your sponsorship of such a decisive bill.

This bill will fulfill the promise made to the Indian tribes more than 40 years ago. Robert W. Service, the great poet of the Yukon, said in one of his poems, "A promise made is a debt unpaid." This bill will pay that debt fully and honorably.

With the great help of Mr. Harold Gross, an attorney who has done more research into the issue of submarginal lands than anyone in or out of the Federal Government and to whom we are extremely grateful, we have studied the history of this proposed transaction.

It is clear to us that the intent of the law was to transfer these submarginal lands to the tribes for their greatest economic and social benefit. The law has not been fulfilled and no substantive argument has ever been made in forestalling that fulfillment.

As we understand it, the executive branch has attempted to withhold subsurface rights to the land from the tribes in the transfer of the land to them. This, presumably, was based on the fact that valuable minerals, including oil, have been discovered on certain of the lands and the accrued receipts from the royalties for their extraction would be sufficiently great to cause the Government pause in paying it back to the Tribes.

But, Mr. Chairman, is this reasoning just or honorable?

The executive branch has attempted to impose the "usual offset clause" on the value of these lands against any pending claims in the Indians Claims Commission; yet the Indian Claims Commission Act of 1946 provides specifically that "expenditures under any emergency appropriations or allotments made subsequent to March 4, 1933, shall not be a proper offset against any award." And in light of the fact that the destitute farmers who benefited from the sale of these submarginal lands, or their children, were strapped with offsets in any subsequent dealings with the Federal Government, we consider this proposed imposition totally illegal and unjust.

Members of Congress in the past have held up the consummation of this transaction with the stated fear that it would set a "bad" precedent, and would result in a landslide of claims for lands wrongfully taken from the tribes.

It is difficult for us to understand how an act of justice could set a "bad" precedent. Precedents have already been set in the cases of the Seminoles of Florida, the Pueblos of New Mexico, and the Stockbridge-Munsee Tribes, and the only landslide of claimants has been the other tribes who were provided for in the submarginal lands legislation more than 40 years ago.

Other stalling tactics have been the constant referral of the submarginal lands issue back for further study. Mr. Chairman, I hope we can agree that this issue needs no further study.

I believe we can agree on the fact that the most urgent need on Indian reservations today is true and lasting economic development; and the transfer of these submarginal lands to the tribes and the full payment to the tribes of accrued receipts from these lands will help immeasurably in that needed development.

In our meetings with the tribes affected by this legislation, we have heard over and over where the tribes could not develop badly-needed housing projects on submarginal lands because of the lack of clear title. Nor would any industrial firm consider investing in any development on those lands because of the clouded title issue.

We have heard from the tribes of the difficulty in "packaging" viable range units due to the necessity of "gerrymandering" around the submarginal land parcels.

There are other problems that the tribes who are here to testify can relate far better than I can; the point is that we do not deserve these problems and they need not remain.

On the positive side, Mr. Chairman, the clear title—the complete title—to these lands would allow the tribes to develop them for the benefit of our people. On the lowest rung of the social and economic ladder in this country, we need all the help we can get.

Mr. Chairman, we are encouraged by the excellent geographic and bipartisan cross-section of the cosponsors of this bill and the excellent leadership we have on both sides of Congress. We encourage you to get this long-overdue legislation through in the 94th Congress, and we offer all the help we can muster to do this.

Mr. Chairman, that concludes the statement of the National Congress of American Indians, and I thank you for this opportunity to testify before this distinguished committee.

I would like to enter into the record resolution No. NCAI-74-19.

Mr. MEEDS. Thank you very much, Mr. Trimble.

Without objection, the resolution will be made part of the record at this point.

[The document referred to follows:]

RESOLUTION No. NCAI-74-19

SUBMARGINAL LANDS

Whereas, lands were purchased for the benefit of various Indian tribes under the authority of several Acts of Congress in the 1930's; and

Whereas, the tribes with great effort have persistently urged Congress to enact legislation putting the land in trust; and

Whereas, while Congress has passed a few Bills for individual tribes, they have ignored the needs of the other tribes who desperately need the land for economic development: Now, therefore, be it

Resolved, That the National Congress of American Indians urges immediate action by Congress on any and all of these submarginal lands bills and that the Senate and the House of Representatives make this [issue] a priority in the 94th Congress.

Adopted unanimously on October 25, 1974, at the 31st annual convention of the National Congress of American Indians, in San Diego, California.

Mr. MEEDS. What, in your view, was the original purpose of the purchase of these submarginal lands?

Mr. TRIMBLE. Mr. Chairman, it was a dual purpose. First of all, to relieve the non-Indian farmers who were living submarginally in these land areas during the Depression, to allow them a new chance.

Equally as important, it was to provide land, complete title to that land, to the Indian tribes affected for the greatest social and economic benefit of those tribes.

Mr. MEEDS. What is your interpretation of the words "exclusive benefit"?

Mr. TRIMBLE. The benefit of only the tribes, sir.

Mr. MEEDS. Do you think that charge is fulfilled when such land which was purchased for the exclusive benefit of a tribe is flooded and the benefits of that flooding accrue to persons other than an Indian tribe?

Mr. TRIMBLE. No, sir, I do not. Nor, when the title rests with someone other than the tribes.

Mr. MEEDS. Is it possible for the tribes to develop these lands for economic purposes at the present time?

Mr. TRIMBLE. It is not possible to develop them fully. The tribes have told us of problems in getting any development on land that does not have clear title.

Mr. MEEDS. We have passed laws here which allow tribes to borrow money. Would they be able to borrow money against these submarginal lands in their present status?

Mr. TRIMBLE. Sir?

Mr. MEEDS. Would they be able to borrow against these lands in their present status?

Mr. TRIMBLE. No, sir, not without title.

Mr. MEEDS. Would they be able to build houses on them under the HUD act?

Mr. TRIMBLE. No, sir, not without clear title.

Mr. MEEDS. There are a number of things impeding economic development on these lands under their present status; is that correct?

Mr. TRIMBLE. Yes, sir.

Mr. RISENHOOVER. On page 2 in your testimony, they dropped the first e out of my name. As you heard earlier, I am having enough handicaps communicating with the Indian people in my district.

I assure you regardless what the administration thinks about this bill, we intend to push for its passage and return these lands to the Indians with clear title.

That is all I have.

Mr. TAYLOR. Indians have a traditional claim, perhaps valid, to all land in America. What special claim do they have to this submarginal land?

Mr. TRIMBLE. The law, sir, the acts of Congress and the Executive orders and various other laws that have accumulated granting them this and now we need final transfer of title into trust for the Indians.

Mr. TAYLOR. When this land was taken by the Federal Government back in the 1930's, was it taken away from the Indians?

Mr. TRIMBLE. It was purchased from whites for the exclusive benefit of the Indian tribes, sir.

Mr. TAYLOR. Of the total acreage, some remains with the Bureau of Land Management, and nearly 1 million acres were transferred to

the States. Another portion says nothing shall deprive any person of the title he may have to the land involved.

How would the bill propose to get this land away from the municipalities and the States?

Mr. TRIMBLE. This land was specifically set aside for Indian tribes, not the States. There is no question to us anyway, of titles.

Mr. TAYLOR. I see how we could convey the land from the Federal Government, but I do not see how we can convey the land from States and municipalities back to the tribes.

Mr. MEEDS. I think it would be very difficult. I asked this question before you came in. I asked both the Bureau of Indian Affairs and the Bureau of Land Management to provide us with the terms of the sale.

I think it would be very difficult to reassert ownership of those under this legislation. But, it might be possible to find out how much it was and get compensation for the affected tribes.

Mr. TAYLOR. Thank you, Mr. Chairman.

Another section says the land was purchased at a cost of \$1,852,000. That money did not go to Indian tribes, is that correct?

Mr. TRIMBLE. I am not certain of that, sir.

Mr. TAYLOR. In the main, the Indians own the land?

Mr. TRIMBLE. Yes, sir.

Mr. TAYLOR. There is no question as to whether or not there should be a return?

Mr. TRIMBLE. No.

Mr. MEEDS. The gentleman from North Carolina has raised some very good questions and perhaps we ought to pursue them.

He asked why these lands are any different from any other lands. Why are they different?

Mr. TRIMBLE. The fact that the Federal Government initiated the action and has not consummated the action.

Mr. MEEDS. Did the Federal Government not purchase somewhere in the area of \$35 million to \$50 million worth of submarginal lands in the 1930's?

Mr. TRIMBLE. Yes, sir.

Mr. MEEDS. Some of those lands were purchased for the purpose of wildlife refuges and parks, is that correct?

Mr. TRIMBLE. Yes.

Mr. MEEDS. Among that purchase, was some 5 million acres which were purchased from white people for the exclusive benefit of the Indian people; is that right?

Mr. TRIMBLE. Yes, sir.

Mr. MEEDS. Those purchased for parks and wildlife are being used for that purpose; is that right?

Mr. TRIMBLE. Yes, sir.

Mr. MEEDS. The purpose of this bill is to have the lands used for their intended purpose; is that right?

Mr. TRIMBLE. Yes, sir.

Mr. TAYLOR. This bill would not take away any of the parks and wildlife refuges, would it?

Mr. MEEDS. Could I have you respond to that, Mr. Thompson?

Mr. THOMPSON. Mr. Chairman, it does not.

Mr. MEEDS. Thank you very much, Mr. Trimble.

Mr. TRIMBLE. Thank you.

Mr. MEEDS. Our next witnesses consist of a panel, Wayne Ducheneaux, chairman, Cheyenne River Sioux Tribe; Roland Kennerly, Blackfeet Tribe; Rick Baker, chairman, Lac Courte Oreilles Tribe.

Will you gentlemen please come forward?

STATEMENTS OF WAYNE DUCHENEAUX, CHAIRMAN, CHEYENNE RIVER SIOUX TRIBE; ROLAND KENNERLY, BLACKFEET TRIBE; RICK BAKER, CHAIRMAN, LAC COURTE OREILLES TRIBE

Mr. MEEDS. I understand that the first panel member, Mr. Wayne Ducheneaux, may have some affinity with a member of our staff.

Please proceed as you wish, gentlemen. If you have prepared statements, you may present them for the record and summarize or you may read them into the record, if they are not too long.

Mr. KENNERLY. I am secretary of the Blackfeet Tribe, Browning, Mont. I would like to read a statement.

Mr. MEEDS. Do you have a prepared statement?

Mr. KENNERLY. Yes, sir.

Mr. MEEDS. Do you have any copies?

Mr. KENNERLY. Yes, sir.

Mr. MEEDS. Please give them to the clerk.

Mr. KENNERLY. Mr. Chairman, members of the committee, House bill 5778 provides for the transfer of title to the submarginal lands to various tribes including the Blackfeet Tribe of Montana. Following is the justification and statement of the Blackfeet Tribe of Montana for the return in trust of 9,037 acres to the Blackfeet Tribe.

Submarginal lands were purchased for, but never delivered to, the Indians. It was the stated intent of the Federal agencies, when the lands were acquired, to improve the economic and social status of Indian reservations.

The acquisition of these lands would enable the Indian population to make appropriate and constructively planned use of combined land areas in units suited to their needs. The records disclose a complete understanding between the Federal agencies involved in the acquisition and administration of submarginal land.

It is that the land was being selected for acquisition in connection with Demonstration Indian projects; that it was needed by the Indians; that it would be utilized by the Indians in connection with the use of Indian-owned land; and that recommendations would be made at the appropriate time for the enactment of legislation to add this land permanently to the Indian reservations.

The total 9,037 acres are located within the external boundaries of the Blackfeet Tribe. The acreage is scattered throughout the Blackfeet Reservation. The return of these lands is essential to the overall land management and planning for the Blackfeet.

The Blackfeet Tribe has been engaged over the years in a long-range land purchase and economic consolidation program. The return of the submarginal lands would greatly enhance this program.

Additional written justification will be submitted at a later date. The Blackfeet Tribe would like to at this time point to several areas as justification for the conveyance in trust of these lands:

1. These lands were purchased for Indians. The time is long overdue for the U.S. Government to convey these lands to the various tribes for their exclusive use and benefit.

2. Conveyance in trust to the tribes would remove the "cloud" on the titles to the property in question. Until these clouds are removed it is impossible and impractical for the tribes or any financial institution or Federal agency to invest capital or effort in the betterment of the land. There can be no housing, economic development, irrigation, or food production from these areas. The only use to which the Blackfeet have been able to put the land is grazing and many persons would like to use the land for housing and other higher economic uses.

3. These lands would fit nicely into the tribe's land purchase program and allow economic consolidation of land tracts. Great positive emphasis must be placed on reservation development. Tribes must now be planning for long-range economic development if they are to defeat the poverty syndrome.

4. The Blackfeet Tribe at present is developing its long-range plans for mineral and oil and gas development. All of the submarginal land on the Blackfeet Reservation is considered to have a potential value for oil and gas and other minerals. The prospects are good with producing fields within 15 miles from the submarginal lands. The Blackfeet Tribe rely heavily on oil and gas revenues to sustain the ever-growing reservation population.

5. The Blackfeet Tribe at present is purchasing land with its own tribal revenues and through the Farmers Home Administration program. The tribe is assuming increasing responsibility for the management of the entire reservation. The checkerboarding of the reservation could be greatly decreased with the addition of these submarginal lands making overall land use planning and management much easier. Of course, if the land were held in trust by the tribe, it could exercise greater control over the property, and improve it for the benefit of the tribal members. At present status, the tribal members are reluctant to improve the land even to the extent of fencing and stockwater, never considering housing since the titles are not secure and clear.

6. There will be no reduction of lands from the tax base in Glacier County, Mont. These lands under consideration are already tax-exempt.

In the meantime our hopes are raised again by this recent activity. Seventeen tribes wait for you, the Congress of the United States, to act on a promise made long ago, and never kept.

Thank you.

Mr. MEEDS. Thank you, Mr. Kennerly.

Which one of you is next?

Mr. DUCHENEAUX. I am.

Mr. MEEDS. Please proceed.

Mr. DUCHENEAUX. Mr. Chairman, honorable members of the committee, I am Wayne Ducheneaux, chairman of the Cheyenne River

Sioux Tribe and I am here today on behalf of the United Sioux Tribes of South Dakota to testify in favor of H.R. 5778. It is an honor to appear before you today.

It is indeed an honor to be here. Most of the topics in my statement have been covered, but I would like to go ahead and read what I have to say.

Mr. MEEDS. I might just suggest that the other Mr. Ducheneaux had a hand in the preparation of my opening statement.

Please proceed.

Mr. DUCHENEUX. Mr. Chairman, I would like to submit for the record a statement by Robert Burnette, president of the Rosebud Sioux Tribe.

Mr. MEEDS. It will be included in the record at this point.

[The document referred to follows:]

STATEMENT OF ROBERT BURNETTE, PRESIDENT, ROSEBUD SIOUX TRIBE, ROSEBUD INDIAN RESERVATION, SOUTH DAKOTA

My name is Robert Burnette. I am the President of the Rosebud Sioux Tribe. The Rosebud Sioux Tribe consists of over 10,000 enrolled Tribal members. The Reservation is located in southcentral South Dakota and is comprised of five counties with well over a million acres of land.

I am here to appear before your Committee to urge the Committee for the passage of H.R. 5578, that has a companion bill of S. 1327 in the Senate. I urge that this bill be passed because these sub-marginal lands, as they are termed, were purchased for the exclusive benefit of the Indian people.

The Rosebud Sioux Tribe can especially make practical use of these lands because the 28,000 acres that are involved here are scattered throughout a two county area of the Rosebud Reservation, in Mellette and Todd Counties, respectively.

The passage of this proposed legislation would mean that the United States Government is maintaining its pledges to the Indian people. I say this because this land was purchased during the 1930's for the Indian Tribes with the intent that this land would become vested, in the Indian Tribes that were involved, for the purpose of improving their economic condition, as well as controlling the growth and economic conditions of Indian Tribes.

The title to these sub-marginal lands are somewhat clouded and some of these clouds may be removed, very simply, by this act. This act would mean that housing, through the Department of Housing and Urban Development, would become much easier because the title of such lands would be clouded. As it now stands it is impossible for HUD to build homes on these lands that are strategically located on the Rosebud Reservation because of this clouded title.

In the second place, this land would allow the Rosebud Sioux Tribe to proceed full steam ahead with economic development on these sub-marginal lands. As it now stands, we are not sure that we can put any money into the development of these lands because an investment or improvement on these lands might mean that the Government would, some day, divest itself of this land in some other manner, thereby causing great harm to the Reservation involved.

Lastly, insofar as title is concerned, some of this land is strategically located in such a manner that it would be very handy for increasing food production for the Indian people of the Rosebud Reservation, but this, too, is being held back because in order to produce food, one has to improve the land by placing it under irrigation so that there is no possible chance of losing a crop in this high, dry and arid area of South Dakota. The average rainfall in South Dakota, where we are located, averages 12 inches annually. This is not enough for food production and we must place certain lands along the waterways of the Reservation under irrigation in order to properly feed our people. With the high cost of food and inflation on an upturn constantly and unemployment at the highest rate its ever been, we must get into food production in order to feed our people so that they can maintain a healthy family kind of life.

The Rosebud Sioux Tribe, under the present Administration, has taken several positive steps on the development of the Reservation. The Tribal Council has enacted resolutions which gives preference to Indian people so that they may enter into business for the first time in history. We are in a position, now, where the

Indian Finance Act will allow Indian people to take their place in the mainstream of the economic society as we know it today, here in this country. Never before in history have Indians had this opportunity. At this point, I would like to thank this Committee for its tremendous work load that, finally, brought about the passage of the Indian Finance Act.

The Rosebud Sioux Tribe, through its Council, has borrowed a million and a half dollars (\$1,500,000.00) from FHA to purchase fractionalized interest in Mellette and Todd counties and just last week, April 9, I signed a purchase order and journal voucher for another one million dollars (\$1,000,000.00) that will be expended before July 1, of this year, in purchasing fractionalized interest from both Indians and non-Indians. This program of purchasing land is not just one to buy lands because the Tribal Council has enacted resolutions which will make it possible for the Rosebud Sioux Tribal members to purchase land on a long-term land buying program. This is something that I have been working for, personally, for more than twenty years and have just been able to bring about because of a change in attitude and policy of the United States Government. This, too, is a landmark in the history of Indian people because, now, Indians may make a down payment and contract for the purchase of Indian land for the first time in history on any Reservation in the country.

I hasten to add that the passage of this Act would mean that many of the racial overtones that arise out of the differences between the Indian land owners and the non-Indian person who is leasing Indian land would be set aside because title to this land, once vested in the Tribe, would erase the constant badgering of the two races—white and Indian. I believe that this would be a step forward in improving the relationship between Indians and non-Indians and will certainly improve the mental attitude of Indian people toward the United States Government because it will be fulfilling a part of its promises made more than 35 years ago. I would like to point out to the Congress that the passage of this Act would not reduce the tax base in any of the counties involved because this land is already tax exempt in its present status. I believe that Congress should know that the Rosebud Sioux Tribe is on the march towards progress and this process is brought about because of positive thinking on the part of the Tribal Council and the Administration that is in operation.

The Rosebud Sioux Tribe has an overall economic development plan that is second to none in the country. In fact, as of this very day, the Rosebud Sioux Tribe has the highest employment rate it has ever had in its history. We have 786 Tribal employees, as of this date. This out numbers the hey-day of OEO when some 624 employees were on payroll due to the Poverty Act of this Congress. We are developing jobs in the industrial field. We are developing housing. The Tribe has an RST Construction Company. The Tribe owns, in total, Lakota Products, which is a wood products plant. The Tribe, last year, under the present Administration, took a tract of land that was leased in 1973 for \$20,000.00 and with this same tract made a profit of \$267,000.00 in 1974. This is the difference in the application of intelligence, as well as administration.

The Tribe, like I have said before, has a land use program. We have a lending program for individual members or associations or cooperatives that is in the process of being instituted. The Swift Bear Community has organized a cattle association, where individual members will operate together and, yet, separately on the grounds of being an association. The Spring Creek Community has just passed resolutions requesting that certain Tribal lands be placed in their hands for the use of the cooperative associations that they are in the process of developing. The Tribal Council set aside \$42,800.00 in its last meeting for the purpose of investing money in seed, fuel and equipment that will bring about the growth of more than \$500,000.00 worth of food products. The Tribal Council has maintained, continuously, a Tribal Ranch that is directed towards getting young Indian people into the cattle business on an economic basis; training them and helping to manage viable industries in the field of agriculture.

The Rosebud Sioux Tribe, in its efforts to take Indian people off the welfare roles, has emphatically stated to such people as Mr. Frank Zarb, who was formerly with the Office of Management and Budget and is presently the Czar of Energy in the United States with the Federal Energy Administration that the United States could take all of the grants that are being made to the Rosebud Sioux Tribe and keep them if it would provide the necessary loan funds to place Indian people into business. I stated to Mr. Zarb, I believe that within five years there would hardly be a person on welfare. Instead, they would be taking part in a very viable economy made up of people on the Rosebud Reservation. We still be-

lieve this and we would challenge the Congress to assist the Rosebud Sioux Tribe in meeting this goal of eliminating all of the people on welfare and placing them into a self-sufficient kind of life that will give them the opportunity to make a living by working their hands and their brains.

With this, I would like to congratulate and thank this Congress and the members of this Committee for all that they have done for Indian people. I have been working in the Indian field, constantly, for more than 25 years and I believe that in the last four and five years more progress has been made for Indian people than any time in the history of the United States. No longer is the Government suppressing Indian religion. No longer is the Government subjecting Indian people to the fear of termination and Congress has, instead, passed the Self-determination Act for all Indian people and has made grants possible so that Indian people can, eventually, take their place in this society.

In closing, let me say, that I hope Congress will see fit to enact this Bill and to settle this long-standing question about title to the submarginal lands. I say this with the knowledge that Congress has already passed five separate bills into law in giving the land to the Pueblos and other Tribes of this country. I pray to God that this Bill will become law soon so that we, too, can go forward and join with the rest of America in building this nation of ours, instead of being involved in controversy of any kind.

Thank you, Chairman Meeds, and members of this Committee for this opportunity and may God bless you and guide you through all the days of your life.

STATEMENT OF WAYNE DUCHENEAUX

Mr. DUCHENEAUX. The bill we are testifying for today deals with submarginal lands on the various reservations in the United States. The first question we need to ask ourselves is: "What are submarginal lands?"

In the case of Cheyenne River Sioux Tribe in particular and most reservations in general, these are lands that were opened for homestead, filed on, proved up, and subsequently patents were issued.

These lands were then overworked and soil depleted by farmers who knew nothing of nor cared little for the ecology of the prairie lands that had supported untold millions of buffalo and other wild game since time immemorial.

Once this delicate ecological balance was upset the land was no match for the severe drought and wind-borne erosion that occurred in the 1930's. The soil of this once bountiful land was so severely parched and eroded that it could no longer support the farmers who homesteaded it.

Thus, the term "submarginal" as this land was thought to be below the margin of good farmland. In order that the farmers might salvage something from their years of toil the Department of Agriculture purchased the land and immediately took it out of production.

Subsequently Executive Order 7868 transferred this land from the Agriculture Department to the Department of Interior. Those lands on or near Indian reservations were to be included in Indian projects for the exclusive benefit of the Indian tribes.

Since the passage of the Indian Reorganization Act of June 18, 1934, with its prohibition against allotments in severalty, most tribes have been engaged in land consolidation enterprises, with varying degrees of success, to establish an economic base from which to further the progress of a people long held back by the steady loss of their best land and bureaucratic policies, though well meaning, seemingly designed to thwart their every attempt to gain self-respect in a land they once ruled in harmony with nature herself.

At a time when Indian tribes are working hard to achieve economic development to better the living conditions of their people, it is of vital importance that the title to these lands be transferred to the United States in trust for the Indians.

Many tribes can use these lands for industrial purposes, recreation, consolidation range units, or incorporate them in their overall economic development plans. It becomes very difficult for them to develop future plans around these lands with the uncertain and indefinite nature of the title to these lands. These submarginal lands were purchased for the exclusive benefit of the Indian tribes who were included in the project.

There have been numerous attempts, with limited success, to transfer title to these lands to the Indian tribes for whose benefit they were purchased.

We feel it is now incumbent on Congress to fulfill this pledge.

Section 3 of H.R. 5778 provides for crediting of affected Indian tribes with the moneys derived from these lands from whatever source. This would be in keeping with intents and purposes for which the lands were originally purchased as set out in a memorandum of understanding between the Resettlement Administration and the Bureau of Indian Affairs wherein it states, "For the exclusive benefit of Indians."

This statement would seem to include such moneys which were, in many cases, paid in by the tribes themselves.

We, therefore, urge your support and early passage of H.R. 5778. This concludes my general statement on behalf of the United Sioux Tribes.

If I may, Mr. Chairman, I would like to say a few words on behalf of the Cheyenne River Sioux Tribe. You touched on a problem I am going to raise here concerning this land flooded by the various reservoirs.

The Cheyenne River Sioux Tribe adjacent to the Main Stem Reservoir on the Missouri River is faced with a peculiar situation. Under the terms of Public Law 1876 our tribe has the right to free use for grazing purposes of all former trust lands within the taking area.

The Corps of Engineers has control over several hundred acres of land that was owned by non-Indians before the taking of the land and the corps leased these lands to the highest bidders who are generally non-Indians.

They dumped truckloads of cattle on isolated tracts and since it is not feasible to fence these lands, they used this manner to overrun the land.

We consider it imperative that these lands within the taking area be treated the same as former trust lands within the taking area.

It is further our view, Mr. Chairman, that since these lands were purchased for the exclusive benefit of Indian tribes concerned, tribes should be compensated for the taking of those lands by the Government.

Thank you, Mr. Chairman.

Mr. MEEDS. Thank you, Mr. Ducheneaux.

Mr. Baker? Do you have a prepared statement?

Mr. BAKER. Mr. Chairman, I have a preliminary land use plan I would like to read from and have an opportunity later to submit the plan for your information.

Mr. MEEDS. Proceed.

STATEMENT OF RICK BAKER

Mr. BAKER. I would like to thank the committee for the opportunity to present issues of the Lac Courte Oreilles Tribe. I would like to go on record in support of H.R. 5778 which would return 15,000 acres of land to the Lac Courte Oreilles Tribe.

In addition to land return, we petition that all the accrued income be conveyed to the United States. While there might be some doubt in the mind of the administration as to what the final disposition of those accrued incomes might be, I think we can state that there is no doubt in the minds of our tribal government as to how these funds should be disposed of.

I would like to point to a critical area of economic development in this country which demands the need for flexible moneys and the opportunity to develop some impact on the economic development in the reservation.

I would like to read some conclusions from our plan.

The original agreements between the U.S. Government and the Lac Courte Oreilles Tribe provided for ongoing assurances of support and resources. The survival issues faced by the Lac Courte Oreilles Tribe in the mid-1800's was hinged upon the United States ability to live up to its agreements and obligations.

In return for these considerations, the Lac Courte Oreilles Tribe and other Chippewa units in northern Wisconsin ceded certain territorial considerations which allowed for the expansion and development of the State of Wisconsin and their white communities.

Since that time, the erosion of these treaty agreements imposed further economic curtailment as exemplified in the Allotment Act of 1887. This act has caused the loss of over 26,000 acres of reservation lands to non-Indians. Of course, those lands lost to non-Indians are the most desirable lakefront properties.

The loss of an additional 5,700 acres occurred in approximately 1920 when the Chippewa Reservoir flooded valuable tribal lands. Northern States Power Co., a non-Indian corporation, has caused not only the loss of usable lands, but also resources valued in the excess of \$125,000 a year over the past 50 years.

In the mid-1930's, the Lac Courte Oreilles Tribe lost an additional 13,000 acres through the development of the FSA program. Because of encumbered or an unclear title situation, it has been impossible for the tribe to fully utilize the potential of these land resources.

There remains for tribal usage today, approximately 3,000 acres of tribal land. Less than one-half of the original reservation remains. The 27,000 acres of allotted lands have inherent problems which prevent general development and usage.

The major problem is of course the heirship condition of each and every parcel of allotted land. The heirship problem presents hurdles that are not easy to overcome or manage and generally precludes community development on a long-term basis.

The Lac Courte Oreilles tribal government has attempted to negotiate the need for housing with a meager 3,000 acres of tribal lands. Much of the reservation, including tribal lands, has a high water table

and presents a major problem when attempting to meet the standards of the agencies affected by any housing development project.

As a consequence, the search for homesites during the past 2 years, during which time 70 units of HUD housing was constructed, demanded an expenditure in excess of \$14,000 to buy 42 acres of homesites within the reservation boundaries.

This purchase of homesites was from non-Indians. It is indeed a sad commentary when Indian people are forced to buy lands inside their reservation boundaries in order to have a place to live.

As an example, 3 acres inside the boundaries of our reservation, in the community of Reserve, was purchased from the Sawyer County government. The back taxes on those acres amounted to \$306.06.

The tribe was forced to pay \$2,000 for these 3 acres. It appears that the non-Indian individuals and county governments are in the real estate business inside the boundaries of an Indian Reservation.

Four years ago, a survey of housing needs revealed a demand for an additional 200 new homes. To date, 70 units have been constructed and already we are faced with land problems.

The need for reservation development to improve economics and job opportunity continues to assert its demands for attention. Long-term neglect and abandonment of this basic problem represents the root cause of Indian problems in Indian country today.

The timber resources represent a potential that could provide approximately \$100,000 in payroll annually. It is estimated that \$36,000 in stumpage fees could be realized and made available for other economic development efforts.

Because of the desperate need for flexible startup moneys in order to provide independent sources of revenue, the Lac Courte Oreilles Tribe petitions for the accrued incomes from FSA lands now held by the U.S. Government.

Some of the projects that might be forthcoming if startup capital is available includes:

1. Logging and pulp wood operation.
2. Wood product manufacturing.
 - A. Residential signs.
 - B. Wooden benches and tables.
 - C. Lawn furniture.
3. Tourism related enterprises.
 - A. Motel marina complex.
 - B. Bait, shot, sporting goods.
4. Various cottage industries.
 - A. Maple sugar—

Mr. MEEDS. Could I interrupt? Could you tell me how long that statement is, please?

Mr. BAKER. I have a page left, sir.

It is apparent from the lack of industry located in the surrounding counties, that the Lac Courte Oreilles people cannot rely on industrial development outside of their reservation. Therefore, we should pursue industrial development on our own tribal land in order to implement our goal of increasing employment opportunities for ourselves.

There is a great economic potential for the reservation that involves natural resources. The entire reservation is richly endowed with natural resources that, if used properly, could provide additional economic stability for the Lac Courte Oreilles Reservation.

Lac Courte Oreilles is situated in the midst of a recreational area that has unlimited potential. It is suggested that the Lac Courte Oreilles people seriously consider the feasibility of developing their recreational potential.

Included in this, should be classification of the recreational resources into four groups: General outdoor recreation areas, natural environment areas, unique natural areas and historical and cultural sites.

From here, steps should be taken to develop these areas, which would bring financial support to the reservation by providing employment and generating more revenue amongst the Indian people.

The Lac Courte Oreilles tribal government has identified specific goals based on the immediate needs of the band. As these goals are implemented, the ultimate objective—economic gain—can begin to be realized.

Mr. Congressman, this is an excerpt from our plan, and I hope to emphasize that here again, the land shortage is acute. We have suffered alienation and the land return could be a very important instrument to our growth and development for our people.

Mr. MEEDS. Who is the spokesman for this group?

Mr. DUCHENEAUX. I am.

Mr. MEEDS. I will address my questions to you. It is my understanding that you three are not only testifying in behalf of your own tribes and the transfers which you seek for them, but also as kind of a composite of all of the submarginal tribe claimants; is that correct?

Mr. DUCHENEAUX. I am here testifying in behalf of the United Sioux Tribes of South Dakota who asked me to come here.

Mr. MEEDS. The United Sioux Tribes?

Mr. DUCHENEAUX. Yes, sir.

Mr. KENNERLY. I am here for the Blackfeet and the Northwest Tribes.

Mr. BAKER. I am here for the Lac Courte Oreilles Tribe. I have been delegated by the Red River Tribe to submit their plan addressed to the general issues of reservations in Wisconsin.

Mr. MEEDS. Mr. Kennerly, in your statement on the first page about two-thirds of the way down:

... it was needed by Indians, that it would be utilized by the Indians in connection with the use of Indian-owned land; and that recommendations would be made at the appropriate time for the enactment of legislation to add this land permanently to the Indian Reservation.

Can you expand a little bit on that last statement, "recommendations will be made at the appropriate time"; to what are you referring?

Mr. KENNERLY. I think I am referring to this hearing right now. We recommend at this time that title be transferred.

Mr. MEEDS. Were there any recommendations made when the land was originally purchased or thereafter by the administration that legislation would be enacted in future dealings with this land?

Are you well aware of what it is, where it is sited?

Mr. KENNERLY. No; I am not.

Mr. MEEDS. Without objection, you may reserve that and supply an answer for the file of the subcommittee.

Mr. MEEDS. Are any of you aware of a reduction in tax that will be brought about by the enactment of the legislation we are considering? Mr. Baker?

Mr. BAKER. There would be no effect upon the tax base if this transfer was completed, Mr. Chairman. It is already in trust status and is not taxable.

Mr. RISENHOOVER. Will it become taxable?

Mr. BAKER. Mr. Chairman, there is no intention for this land to ever become taxable. The constitution and bylaws of the Lac Courte Oreilles Tribe reservation prohibit the sale of tribal lands, that land which belongs to the general tribal community.

Mr. RISENHOOVER. Mr. Ducheneaux, I understood you to say that the Corps of Engineers is leasing part of the land surrounding the lake, the Missouri River, the reservoir there.

Mr. DUCHENEAUX. Sir, they are leasing it out to—the land they took was within the taking area, certain parcels are put out to the highest bidder. It is generally a non-Indian who bid on it.

Mr. RISENHOOVER. I am wondering do you know what the Corps of Engineers does with that money? Is that in an account where it could be traced?

Mr. DUCHENEAUX. Sir, I have no idea.

Mr. RISENHOOVER. I am aware of some of the practices of the Corps of Engineers in my own district. They arbitrarily put some of these things up and change them around. In my district they have taken away from the cattlemen and given it to the farmers because they can get more money leasing it that way.

If this legislation is enacted, the Corps of Engineers would be responsible for returning whatever moneys were collected.

Are there areas where they charge fees to the general public to use these areas?

Mr. DUCHENEAUX. Fishing?

Mr. RISENHOOVER. No, parking sites, camping, and this kind of thing.

Mr. DUCHENEAUX. No, sir. The reason I raised the question about the land is because they treat the submarginal lands in a like manner.

Mr. RISENHOOVER. They have actually been leasing some of the submarginal lands?

Mr. DUCHENEAUX. Yes, sir.

Mr. RISENHOOVER. Do you know of this lake area, do you know if any of that borders any of those lakes in that area?

Mr. DUCHENEAUX. I do not.

Mr. MEEDS. Thank you very much, gentlemen.

Mr. DUCHENEAUX. Thank you very much.

Mr. MEEDS. The next witnesses will be Norman Hollow and Joe Day.

Pardon me just a moment, gentlemen. I have an appointment at noon which I cannot get out of. I should leave here sometime shortly after a quarter to 12. Is it better not to start your testimony but to wait until this afternoon?

We are going to have to come back anyway. There are a number of witnesses.

Mr. HOLLOW. Fine. I will be happy to come back.

Mr. MEEDS. Very well. The committee will be in recess at this time until 1:30.

[At 11:39 a.m. the subcommittee recessed, to reconvene at 1:30 p.m.]

AFTERNOON SESSION

[The subcommittee reconvened at 1:35 p.m., Hon. Lloyd Meeds, chairman of the subcommittee, presiding.]

Mr. MEEDS. The subcommittee will resume its sitting for the purpose of taking testimony on bill H.R. 5778 and others. The first witnesses this afternoon, Mr. Hollow, chairman, and Joe Day, Assiniboine-Sioux Tribe of the Fort Peck Reservation. Would you come forward, gentlemen? I will advise all the witnesses that the Chair will have to complete the hearings at 2:30 if we are fortunate to get by without quorum calls and rollcalls at that time.

We have a little less than 1 hour for all the witnesses. I hope everyone will bear that in mind and if you have long, prepared statements, insert them in the record and you can summarize.

Please proceed.

**STATEMENT OF NORMAN HOLLOW, CHAIRMAN, ACCOMPANIED BY
JOE DAY, ON BEHALF OF THE ASSINIBOINE-SIOUX TRIBE OF THE
FORT PECK RESERVATION, POPLAR, MONT.**

Mr. Hollow. Thank you, Mr. Chairman. My name is Norman Hollow. I am chairman of the Assiniboine Tribe of the Ft. Peck Reservation, of Poplar, Mont. I want to thank the members of this committee for allowing me to testify on H.R. 5778.

I have a prepared statement which I will submit for the record.

[The document referred to follows:]

**STATEMENT OF NORMAN HOLLOW, CHAIRMAN, ASSINIBOINE AND SIOUX TRIBES,
FORT PECK INDIAN RESERVATION**

My name is Norman Hollow. I am Chairman of the Assiniboine-Sioux Tribes of Fort Peck Reservation, Montana. I want to thank the Chairman and Members of the Committee for allowing me to testify on HR 5578.

I would like to explain briefly the status of Indian land holdings since the establishment of the Fort Peck Indian Reservation by the Agreement of 1888 and the beginning of allotments under the Act of May 30, 1908. After passage of this Act, allotments were made to members of the Tribes in the amount of 320 acres of farming or grazing land, 40 acres of irrigable land and 20 acres of timberland. In later years, the 40 acre and 20 acre allotments were discontinued as there were no more lands of this category available. The allotment of 320 acres to members of the Tribes continued until 1934. After this date, no further allotments were permitted.

The Act of May 30, 1908 also granted the right to non-members of the Tribes to make settlement upon the non-allotted surplus lands. Homestead entry was permitted from May of 1914 until around the middle '30s.

Since the beginning of allotments, Indian land holdings have been diminishing very rapidly. Many Tribal leaders are very much concerned about this situation and at various times have attempted to make provisions to keep their lands intact.

As an example, in 1949 the Tribes adopted a Land Purchase Program whereby from 1949 to 1954 the Tribes purchased 16,259 acres from individual members of the Tribe.

In 1954 the Land Purchase Program was stopped by the Bureau of Indian Affairs because no definite policy had been developed by the Tribes for the purchase of additional lands. However, we now have an approved Land Purchase Program acceptable to the Tribes and the Bureau of Indian Affairs.

The Tribes have also borrowed funds from Farmers Home Administration in the amount of \$2,500,000 for land purchase. With the use of these funds the Tribes purchased 71,460 acres. In these sales the Tribes purchased 26,544 acres of complicated heirship land. To date, we have purchased heirship tracts in the amount of 54,703 acres.

We have a Credit Program to provide financial assistance to individuals who desire to get established in any business including grain farming or ranching. These funds are also available to high school graduates who desire to obtain a higher education in any college or university. This program was initially started with Tribal funds in the amount of \$650,000. We have also received \$500,000 of federal funds from the Bureau of Indian Affairs as a result of passage of the Indian Finance Act.

Recently the Tribes employed the firm of Development Planning and Research Associates from Manhattan, Kansas, to provide a feasibility study for the possibility of creating a Tribal Farming Enterprise. The economy of Fort Peck Reservation must be based on the two principle resources of our reservation, the land and our people. Extensive farming, wheat and cattle is the economic base of our reservation and offers the greatest opportunities for expanding employment and income opportunities for our reservation.

The Tribes have also invested \$50,000 in a Camouflage Netting Assembly contract secured from the Department of Defense. The plant is now in operation employing 95 people.

We also have a small Electronics Plant in operation which employs 18 people. The Tribes invested \$90,000 in this project which assembles electronic components for the Government as well as for several commercial companies.

We also have in operation, a Housing Project, building new houses for Tribal members. This plant employs about 60 people.

We recently completed negotiations with ESCO Corporation from Portland, Oregon. This plant will establish an intermediate casting finishing plant that will initially employ about 33 persons and will furnish processing services on a contract basis.

ESCO Corporation's largest single division is earthmoving equipment, whose products include wearing parts as teeth for dippers, draglines and frontend loaders. Rough castings will be shipped from the foundry in Portland, Oregon, for finishing. The product will then be sent to Danville, Illinois, for customer distribution.

I mention these existing projects to indicate what the Tribes are attempting, with our limited resources, to promote projects that are beneficial in raising the economic status of our people.

We are asking the Committee to give favorable consideration to the bill you now have before you, for the following reasons:

1. If the Tribes receive the Submarginal Land it will help to consolidate our Tribal holdings.
2. The revenue derived will assist us to continue with our land purchase program.
3. It will improve the economic standard of living and will assure our Tribal members with an opportunity to become self-supporting and will offer opportunity to become self-sufficient.
4. We can develop and implement our Tribal Farming Enterprise.

Mr. HOLLOW. Thank you, Mr. Chairman. On the first page of my statement I summarize the status of the reservation and the Allotment Act under which individual allotments were made to the individual tribal members and also in that same act authorization was granted to nonmembers of the tribe for homestead entry. As a result of this particular act, a great many acres of tribal land went out of Indian ownership.

The land that we are presenting testimony on this afternoon involves this particular category of land. In other words, the land was originally at one time tribal land. Many of the tribe members have been real concerned about the status of the land going out of tribal ownership and at times have prepared to provide remedies for it with the use of our meager resources from the reservation.

The tribes have instituted a land purchase program and we have also taken advantage of the funds that were available on the Farmers Home Administration. On the basis of the use of these two funds, the tribes have bought land in order to retain it in tribal ownership.

I would also like to summarize some of the activities that we have on the reservation.

First of all, with the use of tribal funds we established a credit program that is available to tribal members who desire to enter into any kind of private business. Many of the Indian farmers have gone now into ranching and farming enterprises with the use of these funds.

We have also secured \$500,000 from an act passed by Congress, the Indian Finance Act. With the use of these two sources of funds we are able to give financial assistance to Indian people who wish to go into private business. The funds are also available to high school graduates who wish to get an education at any college or university.

We recently have complied with the use of tribal funds in the development planning and research division to provide a feasibility study to gather the facts on the possibility of the tribe going into a grain farming enterprise.

If favorable consideration is given to the bill that you now have before you, this will make it possible for the tribe to activate the plans.

We also have a number of enterprises then on the reservation who employ some of the Indian people. Recently we have executed a contract with the Defense Department through the Small Business Administration for construction of camouflage netting. The tribes have invested \$50,000 in this proposal. We also have a small electronics plant on the reservation where the tribe has invested \$90,000.

Under this operation, we assemble electronic components for the Department of Defense as well as several commercial projects. We have a housing program going on in the reservation that is assisting Indian people in getting modern, up-to-date housing facilities.

With these enterprises we are able to put some of the Indian people to work. We also recently have completed negotiations with a corporation from Portland, Oreg., which is planning to put part of their plant on reservation lands.

The plant located on the Fort Peck Reservation will include the production of wearable parts like teeth for dippers, draglines, back-hoes, front-end loaders, and so forth.

The Portland plant—these things are for commercial distribution. These are some of the things we are trying to implement on our reservation. With the passage of this particular bill, the tribes will be assisted financially to carry out some of the objectives we have in mind.

I summarized on the last page the manner in which this bill could be helpful to us. It would consolidate our tribal land holdings. With the revenue derived from the funds available, the land could be used for continuation of our land purchase program.

It will also help improve the standard of living and insure our tribal members with an opportunity to become self-sufficient and self-supporting and an opportunity to become self-sufficient. Of course we can develop our agribusiness that I mentioned earlier.

Thank you very much.

Mr. MEEDS. Thank you very much, Mr. Hollow.

Were you going to also testify?

Mr. DAY. Mr. Chairman, I don't have a prepared statement but I have a few words here.

Mr. MEEDS. I will have to leave to vote in 5 minutes.

Mr. DAY. My name is Joe Day. I am a member of the Fort Peck tribal council. I am here to testify as a part of this in support of H.R. 5778. I am going to address in particular the special provisions in the bill that provide that any and all receipts received prior to the enactment of the act shall be deposited to the credit of the Indian tribe receiving the land.

In this respect the Fort Peck tribes have resolved that any benefits received as a result of this act will be used for the promotion of education and economic development for the tribal members with specific and particular emphasis on land acquisition and maintaining our land base on the reservation.

Thank you, Mr. Chairman.

Mr. MEEDS. The Fort Peck Reservation is one that had some—is it one of the areas where there was land inundated?

Mr. HOLLOW. No.

Mr. MEEDS. In the submarginal lands on the Fort Peck Reservation there are substantial oil deposits, is that correct?

Mr. HOLLOW. Yes.

Mr. MEEDS. What company presently is working there?

Mr. HOLLOW. Shell Oil Company and Murphy Oil Co. have done some extensive work on the reservation.

Mr. MEEDS. I assume you feel that this bill would give to you all the mineral royalties that have been received and placed in a special account?

Mr. HOLLOW. That is right.

Mr. MEEDS. This is the money that you talked about, Mr. Day, about plans to improve your reservation?

Mr. DAY. Yes, sir.

Mr. MEEDS. Thank you both very much. The committee will be in recess while the Chair runs and votes.

[Voting recess.]

Mr. MEEDS. Our next witness is Mr. Wilson Skeet, vice chairman of the Navajo Tribal Council. Why don't we take Mr. White Eagle, chairman of the Standing Rock Sioux Tribe, since Mr. Skeet is not present here?

We will now hear from you Mr. White Eagle.

STATEMENT OF MELVIN WHITE EAGLE, CHAIRMAN, STANDING ROCK SIOUX TRIBE, FORT YATES, N. DAK., ACCOMPANIED BY MARVIN SONOSKY, ATTORNEY; HARRY FAST HORSE, PHILLIP EAGLE, AND MS. VERNA BAILEY, TRIBAL MEMBERS

Mr. WHITE EAGLE. Thank you very much.

Mr. Chairman and members of the committee. My name is Melvin White Eagle. I am chairman of the Standing Rock Sioux Tribe. I am here to testify in support of H.R. 5778, to transfer trust title to the submarginal lands on the Standing Rock Reservation to the tribe.

The bill would vest the tribe with title to about 10,300 acres of so-called submarginal land on the Standing Rock Reservation. These lands are now being used by the tribe under a permit from the Department of the Interior. The transfer of title would permit the tribe to make permanent plans for the use of these lands, and would allow the tribe to use the lands with certainty that the lands were tribal property.

The Standing Rock Sioux Tribe for years has carried on a land consolidation and development program. The tribe has already invested well over \$3 million in tribal resources for land purchases and improvements, in carrying out the consolidation and development program. However, the tribe is never certain where it stands with the submarginal lands because title is not in the tribe.

I know that the committee has the full history of the submarginal lands, and I do not feel it necessary to go over that history, except to say that we always understood that when the United States bought these lands on the reservation they were bought for Indian benefit and use. This was the message that was delivered to the Indian people.

The Standing Rock Sioux Tribe urges the committee to recommend the passage of H.R. 5778 into law.

On behalf of the tribe and myself I thank you for this opportunity to testify before the committee.

Thank you, Mr. Chairman.

Mr. MEEDS. Thank you very much.

As I understand it now there would be no change in the use of these lands. In other words, the tribe is presently using the submarginal lands, is that correct?

Mr. WHITE EAGLE. Yes.

Mr. MEEDS. These have not been utilized by other persons than members of your tribe?

Mr. WHITE EAGLE. No, sir.

Mr. MEEDS. Have any of your lands been flooded, any of these submarginal lands?

Mr. WHITE EAGLE. Approximately 650 acres.

Mr. MEEDS. What is that? Is that the—

Mr. WHITE EAGLE. That is the Wahi Reservoir.

Mr. MEEDS. What benefit have the Standing Rock Sioux gotten from that?

Mr. WHITE EAGLE. As far as the taking area, the court has given first preference to the tribe for using of the land in the taking area.

Mr. MEEDS. I didn't understand you.

Mr. WHITE EAGLE. The tribe has first preference for use of that land.

Mr. MEEDS. What benefit are you getting from the reservoir itself, from the fact that these lands are submerged? Do you get water for irrigation? Do you get hydroelectric power? What?

Mr. WHITE EAGLE. No benefit at all at this time. Nothing. Nothing whatsoever.

Mr. RISENHOOVER. Do you have the Corps of Engineers administering the land around this reservoir?

Mr. WHITE EAGLE. Yes.

Mr. RISENHOOVER. Do they have a user fee, levies that they place on tourists or people who use park facilities?

Mr. WHITE EAGLE. You are talking about the submarginal lands?

Mr. RISENHOOVER. Right.

Mr. WHITE EAGLE. The Corps of Engineers has a master plan which we have not seen yet. I really don't know what their plans are.

Mr. RISENHOOVER. Are there any public use facilities there, any public parks?

Mr. WHITE EAGLE. Not to my knowledge.

Mr. RISENHOOVER. Does the Corps of Engineers lease these tribal lands out for use other than anyone other than the tribe?

Mr. WHITE EAGLE. No.

Mr. MEEDS. I have one other question, Mr. White Eagle. When the submarginal lands were flooded, did your tribe receive any compensation at all?

Mr. WHITE EAGLE. No, sir.

Mr. MEEDS. Were you consulted about it?

Mr. WHITE EAGLE. When this happened, that was before my time.

Mr. SONOSKY. I have been general counsel for this tribe for 20 years. At this time we endeavored as a part of the package that was presented to Congress in connection with the taking of the tribal and other trust lands for the Wahi Dam Reservoir to get the transfer of the title to the submarginal lands. But the Congress did not entertain that. So we did not get it.

There was no opportunity. The climate was not right, let's say, even to ask for compensation for the contemplated use of those lands since they were then and still are the property of the United States. The Government did take 630 acres of the submarginal land. Some of that was within the taking submerged and some of that is between the taking and the waterline. The Corps on the Standing Rock Reservation does give a preference to the tribe with respect to the submarginal lands but not out of choice. We had to come to Congress and get our act amended to compel them to do that.

The situation on Standing Rock, I believe, is different than the one that was testified to this morning on the Cheyenne River.

Mr. MEEDS. Very well.

Mr. SONOSKY. There is an error in the bill with respect to the acreage. The acreage of Standing Rock is shown in the bill at 6,879. Standing Rock is in two States, North Dakota and South Dakota, and that is the approximate acreage of the South Dakota portion. The total and correct acreage as far as we know is 10,256 acres.

Mr. Chairman, there are some language changes that we would like to suggest but with your permission, I think it would be better if I drafted a letter and pointed those changes out.¹ But one thing in particular—and I say this because I have done a little examination on one of the reservations, Fort Peck—in which we tried to define the ownership of the submarginal lands, the title papers are not in good condition. You are never going to be absolutely certain that every acre of submarginal land will be transferred by this bill unless provision is made.

The way the bill is drafted, it identifies the land by acreage. There could be a variation of as much as 100 or 200 acres, or more. When you are speaking of 80,000, or 75,000, I would suggest that the acreages be treated as estimates, and not be construed as defining the extent of the grant.

The intent is for the United States to divest itself of all of the acreage.

Mr. MEEDS. I hope we clean it up one way or another when we mark it up.

Thank you very much, both of you.

¹ See letter dated Apr. 25, 1975, on p. 56.

Let's now hear from Mr. Skeet. I see you have a prepared statement. You may submit it for the record and summarize it if you like.

Mr. SKEET. Yes, sir, Mr. Chairman.

Mr. MEEDS. Without objection, the prepared statement will be made a part of the record.

[The document referred to follows:]

STATEMENT OF WILSON C. SKEET, VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before this Committee and to give the position of the Navajo Tribe and the Navajo people on H.R. 5778. The Bill includes land on 17 Indian Reservations, but the area that I will discuss is the area involving the Navajo Reservation in McKinley County, New Mexico.

The general area where the land is located is what is now northwestern New Mexico. The Navajo legend states that Navajo people have been in this general area since they came on this earth. It is difficult to pinpoint the exact spot where Navajo people came upon the land in the beginning as I am told the Christian people came upon the land in the beginning as I am told the Christian people have not been able to locate the Garden of Eden. Everyone making a study of the area seems to agree that Navajo people have been in the area for four hundred to eight hundred years. We submit that this is long enough to establish some kind of claim, even by white man's law.

It is easy for me to become involved here because my family is one of the families occupying this area, I was born here and now live here.

Be that as it may, with the coming of the invaders, first the Spanish and then the Anglos, they claimed the area where we lived as their own and placed their people on some of the land. Curiously, however, as contrasted with many Indian original occupancies, the Navajo people in this area were not removed, but continued to reside on the land not taken and occupied by the invaders. Some Indian people were given Allotments on which they lived and some just remained in the area on land they had always occupied and from which they have not been removed to this day.

The Anglo people receiving title to much of the land in this area soon learned what we could have told them in the beginning. They could not make a living on the land they gained title to and soon became disillusioned with their land ownership. The U.S. Government then purchased about 70,000 acres from the non-Indian people in the area. The U.S. Government had noticed the many types of ownership and use in the area and that no one could successfully make economic use of the area because no one owned or had occupancy of an area large enough to make an economic unit. When this land was purchased a statement was made called Circular No. 1, issued on June 7, 1934 by the Federal Emergency Relief Administration concerning the reasons for the purchase and the use of the land which was called submarginal land. This circular stated five reasons for this purchase (1) to try to do something about the highly checkerboard ownership pattern; (2) watershed or water control areas; (3) additional lands to supplement inadequate reservations; (4) lands for homeless Indian bands or communities now forming acute relief problems; and (5) lands needed for proper control of grazing areas.

We also were informed that when the land acquisition program was completed that recommendation was to be made that the lands be transferred to the Office of Indian Affairs for permanent administration for the exclusive benefit of Indians.

In other words the record is clear that this land was purchased for Indians and was turned over to Indians for their use and benefit. We were so advised, we so believed and we acted accordingly. We went back upon this land with great hopes that adequate land areas were to be returned to us so that the land could be used to raise the economic status of the area and for better land management.

As I have said at the beginning we were very much encouraged that we were to be allowed to re-establish our grazing use areas and be able to live and support our families by an economic method used by the non-Indian, livestock grazing. We improved the property, built homes and tried to carry out the stated purposes and plans of the Government as announced at that time. More and more, over the years, it became necessary to have a paper showing that we owned the land before we could develop and make commitments for future use of the land. When we go to the Bureau of Indian Affairs they say they can only give us a Revocable

Permit. We cannot make proper use of or develop the area without title. Moreover, lately, there is a growing concern of the people that the Government will try to now say we have no right on this land and that we may lose our homes. We therefore, respectfully request that the Government carry out its announced plans and promises and that H.R. 5778 be enacted.

We notice that in a Bill prepared by the Department of Interior on this same subject there was a provision to, "authorize, with the approval of the Secretary of the Interior, exchange of such lands or interests therein, including tribal improvements, for other lands. . . ."

We may need to do something about the checkerboard ownership and, if we do not have authority to exchange these lands, we recommend that H.R. 5778 be amended to give this authority by adding the language, "For the purpose of consolidation, the Navajo Tribal Council is authorized, with the approval of the Secretary of Interior, to exchange such lands or interests therein, including tribal improvements, for other lands and improvements of equal value or to be equalized by the payment of money and such lands shall be a part of the Navajo Reservation."

Mr. Chairman, I have a map of the area showing the land involved and the ownership of other land in this area of New Mexico. I will leave this map with the Committee staff and will try to answer any questions you may have.

I could make a longer and more detailed statement but I believe I have presented our case and you have other people to talk about other Sections of the Bill. So if there are questions, I will answer or give additional information, if not this is my statement.

RESOLUTION OF THE NAVAJO TRIBAL COUNCIL

REQUESTING REINTRODUCTION INTO THE 93RD CONGRESS OF SENATE BILL S-3688
RELATING TO THE TRANSFER OF CERTAIN SUBMARGINAL LANDS TO THE NAVAJO
TRIBE

Whereas:

1. There are approximately 70,000 acres of submarginal lands in the Two Wells area of Land District 16, which lands are being utilized by Navajo People, and

2. It is desirable that these lands be transferred in trust from the Federal Government to the Navajo Tribe, and

3. During the 92nd Congress, Senate Bill S-3688 was introduced into the United States Senate to transfer title of certain submarginal lands to certain Indian tribes, which proposed transfer included transfer of the above-named 70,000 acres to the Navajo Nation, and

4. Senate Bill S-3688 was not considered prior to the adjournment of the 92nd Congress, and

5. It is of the utmost interest to the Navajo People that Senate Bill S-3688 be reintroduced into the 93rd Congress, and that the lands in question be transferred during this Congress: Now, therefore, be it

Resolved, That 1. The Navajo Tribal Council respectfully requests the reintroduction into the 93rd Congress of Senate Bill S-3688 (introduced into the 92d Congress), which would transfer to the Navajo Nation approximately 70,000 acres of submarginal lands.

2. The Navajo Tribal Council further requests that the bill thus reintroduced receive the early and active attention of the United States Congress in order to assure rapid passage of such bill.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 59 in favor and 1 opposed, this 1st day of February, 1973.

Chairman, Navajo Tribal Council.

COUNTY OF MCKINLEY,
BOARD OF COMMISSIONERS,
December 6, 1973.

Mr. WILSON SKEET,
Vice Chairman, Navajo Tribal Council,
Window Rock, Ariz.

DEAR MR. SKEET: I am writing you with reference to the Board's action on November 14, 1973 concerning the proposed transfer of 70,000 acres of land South of Gallup from the Federal government to the Navajo Nation.

As you know, the Board voted to support any action that would transfer title to the land in question from the Federal government to the individual Navajo's presently living on the lands. Further, it was the Board's decision that they would endorse additional efforts to see that all mineral rights on the above mentioned lands would also be deeded to the individuals presently inhabiting the area.

In closing, I want to once again emphasize the Board's support for the land transfer as stated above. We stand ready to work with the Navajo Nation to bring this proposed transfer about, and will do all in our power to be of assistance in this matter.

Sincerely,

EDWARD JUNKER,
Chairman.

STATEMENT OF WILSON SKEET, VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL, ACCOMPANIED BY EDWARD T. BEGAY, A COUNCILMAN; GRANT HOLME, COUNCIL MEMBER AND MEMBER OF THE ADVISORY COMMITTEE; CLARENCE N. WARNER, VICE CHAIRMAN OF THE JOINT LAND COMMITTEE, EASTERN NAVAJO AGENCY; AND JIM SHORTIE, LAND COORDINATOR IN THE CHECKERBOARD AREA, WINDOW ROCK, ARIZ.

Mr. SKEET. To my right is Edward T. Begay, a councilman in the area that the 70,000 acres is located in. He is also a member of the Navajo Tribal Council and Advisory Committee. To my left is Grant Holme, my title examiner, and also Clarence N. Warner, vice chairman of the Joint Land Committee, Eastern Navajo Agency, and also Jim Shortie, who is the land coordinator in the checkerboard area. Mr. Chairman, I do have a prepared statement here and since time is running short, I would like to just briefly state that the 70,000 acres that is listed here, the Navajos live on it and use the area, and this is "checkerboarded," every other section having different ownership. Every other section is owned by Navajos, either allotted individually in trust status, or their tribal ownership in trust status also.

On behalf of the Navajos, we fully support the bill, H.R. 5778, because we are having problems doing our major development, improvement, in the area. The tribe does appropriate money to improve water developments and then we have developments in the area like road construction, housing construction, and also business opportunity for our people.

As to BIA, all they give us is a 30-day revocable permit. On behalf of the Navajo Nation, I would like to express my deep appreciation to Mr. Meeds, Mr. Young of Alaska, Mr. Risenhoover, Mr. Bergland, Mr. Obey, Mr. Jones of Oklahoma, Mr. Andrews, Mr. Lujan, and Mr. Ruppe and Mr. Andrews of North Dakota.

In addition to my prepared statement, I would like to submit a tribal council resolution dated February 1, 1973, which makes the request to transfer the title of submarginal land to the Navajo Tribe.

Mr. MEEDS. Without objection, that will be made part of the record along with your prepared statement which we included earlier.¹

Mr. SKEET. I have a letter from the Commission Chairman signed by Edward Junker and dated December 6, where we met with the people of Gallup and in fact the Commission held a public hearing on the matter, and we met and answered questions, and immediately after that hearing they gave us support here to transfer the title of the 70,000 acres of submarginal lands.

Mr. MEEDS. Do you have a communication from him?

Mr. SKEET. Yes.

Mr. MEEDS. Without objection it will be made part of the record as previously noted.¹ Is there anything else?

Mr. SKEET. Then we have had some time with counsel Mr. Ducheneaux, of the committee yesterday and provided him with some additional information and also brought maps showing the area and the land status within the area.

I might add one more thing. We do have plans in this area. For the last 10 years the Navajo tribal government, the Bureau of Indian Affairs, as well as the Bureau of Land Management, signed a cooperative agreement to administer our grazing in this area. We also have our own Navajo grange code to take care of the area and it is coming along very good.

If there is any question I will be glad to furnish information.

Mr. MEEDS. Thank you, Mr. Skeet.

Do I understand from your statement that this 70,000 acres is presently being occupied and grazed by Navajos?

Mr. SKEET. Yes, sir.

Mr. MEEDS. How long has that been?

Mr. SKEET. That has been some 408 years, as far back as the record shows.

Mr. MEEDS. Were they occupying it and grazing it in 1933?

Mr. SKEET. Yes, sir. We were residing there and these Anglos were trying to move in there and trying to farm and they found out they couldn't so they left. So the Government purchased the land. Our hopes are great that the U.S. Government will do the very thing that this H.R. 5778 would do.

Mr. MEEDS. So the transfer of this land in trust would really have no substantial effect on present use? Is that correct?

Mr. SKEET. No, sir.

Mr. MEEDS. It would simply place it in trust so that the Navajo would know without question that it was theirs both physically and legally, is that right?

Mr. SKEET. Yes, sir.

Mr. MEEDS. Would you then be able to obtain grants for housing on the land and other things which cannot presently be done; is that correct?

Mr. SKEET. Yes, sir.

Mr. MEEDS. Mr. Risenhoover.

Mr. RISENHOVER. I don't have any questions. I would like to make an observation. From personal knowledge I have I know that the

¹ Follows Mr. Skeet's statement.

Navajos have done some things there in Arizona and New Mexico that Indians all across the country wish they could do and I would like to encourage you folks.

I have known Mr. Holme for many years. You should communicate to the other Indian people across the country what you have been able to do in Arizona and New Mexico so they might pattern their activities after yours.

I think that all American Indians would benefit from that kind of activity.

Mr. SKEET. Thank you very much.

Mr. MEEDS. Thank you, gentlemen.

Mr. George Goodwin, will you please come forward?

Please proceed.

STATEMENT OF GEORGE GOODWIN, EXECUTIVE DIRECTOR, MINNESOTA CHIPPEWA TRIBE, CASS LAKE, MINN.; ACCOMPANIED BY MARVIN GAHBOW, PRESIDENT OF THE MINNESOTA CHIPPEWA TRIBE, AND MARVIN SARGENT

Mr. GOODWIN. Thank you, Mr. Chairman.

My name is George Goodwin, executive director of the Minnesota Chippewa Tribe. I would like to introduce Mr. Marvin Sargent to my right and also the president of the Minnesota Chippewa Tribe, Mr. Arthur Gahbow. We are here today—we have prepared testimony—but we are here today to urge the passage of H.R. 5778. The Minnesota Chippewa Tribe is the overall governing body for the six Chippewa reservations in the State of Minnesota, excluding the Red Lake Reservation.

From the original treaties the tribe had or was allocated some 1.7 million acres of land. Today the tribe has under its control about 149,000 acres, or less than 10 percent of that land.

The land we are talking about, the submarginal land, is primarily within the reservations and lies contiguous with the lands the tribe has under control now. We do have a map with us today to show you how we would plan to use that land.

We have conferred with our Congressman, Congressman Bergland, who has introduced a separate bill to return the White Earth submarginal lands back. We urge that this bill receive greater precedence and priority over our singular bill and have conveyed our support to Congressman Bergland for that. We have some probable use for the land. Some is being utilized by tribal members now. Agriculture areas on permit, grazing, agricultural purposes are some of the uses.

We would not attempt to change the use of that land should the title be conveyed to the tribe. We are developing a 12,000 acre range in that area here where the land is consolidated which would enable us to expand our reach and development in cattle management enterprises to at least double the total capacity of that range management. The other lands that are being used under permit would continue to be used for agricultural purposes, for grazing and crops.

There are limited timber resources on some of the land. We would propose to provide a timber management program then for those lands, timber—mature timber would be harvested and immature timber would be managed to the point where it could be harvested.

There is some lakeshore land involved. Right now we do not have any access to the lakeshore that is within this area. Again, Mr. Chairman, we would like to urge the passage of H.R. 5778 for the benefit of the Minnesota Chippewa Tribe. We would like to take this time to answer any questions you may have.

Mr. MEEDS. Without objection the prepared statement will be made a part of the record.

[The document referred to follows:]

STATEMENT OF THE MINNESOTA CHIPPEWA TRIBE, SUBMITTED BY GEORGE GOODWIN, EXECUTIVE DIRECTOR

Mr. Chairman, my name is George Goodwin, Executive Director of the Minnesota Chippewa Tribe. Our Headquarters are at Cass Lake, Minnesota.

Background: Prior to the General Allotment Act of 1887 various treaties between the Federal Government and Chippewa (Ojibwa) Indians in Minnesota reserved for Tribal people approximately 1.7 million acres within six established reservations in Minnesota.

With the passage of the disastrous General Allotment Act, and the subsequent passage of the Clapp Act of 1906, in less than 40 years the Tribal people of the Minnesota Chippewa Tribe witnessed an incredible phenomenon as their land ownership was obliterated from 1.7 million acres to the present 149,000 acres spread over six reservations, an unbelievable figure that constitutes less than 10% of the original land base established by legal treaties.

Furthermore, the tragedy of the systematic alienation of Indian lands continued through the mid 1930's. Inter-agency agreements allowed for concentrated Indian land areas to be traded for "other" lands resulting in Tribal property becoming checkerboarded into 40 and 80 acre tracts sporadically scattered throughout the original boundaries of reservations. An excellent example exists on the White Earth Reservation where concentrated Tribal land areas were "traded" to create the Tamarac National Wildlife Refuge. Existing Tribal lands that resulted from just such a land exchange are scattered over great distances, and provide little, if any, concentrated land areas that could effectively allow the Tribe to develop strong social, economic, and political bases.

Apparently, Congress and Federal Agencies at the time placed higher priority on the welfare of the goose and the gander than on the socio-economic plight of human beings, especially our Tribal people.

Submarginal lands: It is not our primary purpose to elaborate further upon past injustices. We are mainly here to offer Minnesota Chippewa Tribal support to and to urge passage of H.R. 5778, a bill that will return trust title to various Tribes of land acquired for their benefit during the depression years of the early 1930's, lands referred to as submarginal lands.

Although we do offer our support to Congressional action that will benefit all Tribes here today having interest in submarginal lands within their own Tribal areas, Minnesota Chippewa Tribal testimony is dedicated principally upon these lands located within the original boundaries of the White Earth Reservation, one of the member Reservations of the six reservations that constitute the consolidated Minnesota Chippewa Tribe, which is the overall governing body of approximately 29,000 Chippewa Indians in Minnesota, duly incorporated and chartered under provisions of the Indian Reorganization Act of 1934.

Minnesota Chippewa Tribal interests in the submarginal lands mostly rest upon a land area of 28,554.8 acres located almost centrally within the White Earth Reservation, and are relatively contiguous with the largest bloc of exclusively owned Tribal lands commonly referred to as the Minnesota Chippewa Tribal Ranch, an agricultural land area that was, ironically, purchased by the Tribe using Tribal funds during the waning years of the depression era. Bearing in mind the location factor, it should be easy to recognize the Tribe's desire to gain trust title to these lands. They will offer somewhat a Tribal land base.

It should further be remembered that the status of these lands is "economically submarginal" which means basically that these lands probably cannot realistically contribute to *substantial* economic growth for the Tribe. Truthfully, the lands must be viewed as having very limited potential. However, the Tribal officials are confident that current Tribal staff is capable and willing to develop innovative land use plans that will extract some productive projects from these lands that will bring about improved conditions for our Tribal people.

Probable land use priorities: It is somewhat ludicrous to expect Tribes to develop intricate land use patterns on the submarginal lands. A number of reasons can be offered to justify this statement.

Relative to the lands within the White Earth Reservation, it can be proven that Congress has granted neither full authority nor adequate funds for the Bureau of Indian Affairs to assist Tribes in providing proper follow-up maintenance of the limited timber resources in this area. The result is evident in the loss of mature timber. This alone represents a tragic lack of management direction that would be improved by Tribal ownership and local planning cooperatively by B.I.A. and Tribal personnel.

Virtually no soils information is available anywhere that will assist Tribes and other cooperating Agencies to determine the best possible utilization of the resources on these land areas.

It can be assumed that about 5 or 6 sections of these lands can be incorporated into Tribal agricultural projects since these lands are immediately adjacent to existing Tribal lands which have had accelerated soils surveys completed recently. These adjacent Tribal lands are proven agricultural and grazing areas. The addition of the submarginal lands will further enhance tribal objectives of entering the Agri-business field.

In summary, Mr. Chairman, we of the Minnesota Chippewa Tribe strongly urge our Congress to fulfill a promise of some 40 years ago and grant immediate passage of H.R. 5778 for the benefit of Tribal people.

Mr. MEEDS. As I understand it you would use this land in your land consolidation program. Part of it is lakeshore property?

Mr. GOODWIN. Yes.

Mr. MEEDS. What would you do with that?

Mr. GOODWIN. Some of the lakeshore property is on tribal land and we are developing that and using that. Some of it is being developed by us into marinas. We would develop privately owned enterprises on those lakeshore parcels.

Mr. MEEDS. Have you previously leased some of these lands?

Mr. GOODWIN. The tribe has leased a couple of parcels from the Bureau. There are two existing leases right now. The tribe has got a free use permit on the land. The tribe is subleasing this land. The individuals are paying a very nominal fee for it.

There will be no substantial change in the use of that land.

Mr. MEEDS. What is happening to that?

Mr. GOODWIN. A small portion is coming in from leases, less than \$1,000 a year, and that goes into the tribal treasury. The income from timber goes to the U.S. Treasury.

Mr. MEEDS. Thank you. The gentleman from Oklahoma.

Mr. RISENHOVER. You said the Bureau is managing those lakeshore areas?

Mr. GOODWIN. Some are undeveloped right now because the tribe cannot get clear title. We cannot develop any kind of long-range programs on those parcels of land.

Mr. RISENHOVER. You are paying the Bureau and they are depositing it to the Treasury.

Mr. GOODWIN. Right.

Mr. RISENHOVER. It would be good to put it in the bank and get some interest on it.

Mr. GOODWIN. Yes, it would be.

Mr. MEEDS. Thank you very much, Mr. Goodwin.

Several of the tribes involved have not had an opportunity to really present any testimony either orally or for the record. Some of the tribes who have today testified would like to provide more specific evidence for the record. The record will be kept open for the purpose

of receiving this further testimony for a period of 30 days. That is, unless there is objection.

Without objection, it is so ordered.

The committee will be adjourned. Thank you for your attention.

[At 2:25 p.m., the subcommittee adjourned.]

[Additional information furnished to the subcommittee follows:]

STATEMENT OF HON. PHILIP E. RUPPE, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MICHIGAN

Mr. Chairman, thank you very much for allowing me to address the Subcommittee concerning H.R. 5778 which declares that certain submarginal lands are to be held in trust for specified Indian tribes. As you know, one of the areas, the L'Anse Reservation in Baraga County, Michigan which is located in my District, is included in this legislation. The over four thousand acres involved would be transferred to the Keweenaw Bay Indian Community with the title held in trust by the United States.

As a short background, the L'Anse Indian Reservation was established in 1854 as a result of a treaty between the United States and the Chippewas of Lake Superior. The L'Anse, Lac Vieux Desert, and the Ontonagon Bands of Chippewas organized the Keweenaw Bay Indian Community to promote the general welfare of the members. The tribe operates under a Constitution and by-laws. Economically, the Community can be described as depressed.

The land in question was purchased around 1934 by the Federal Emergency Relief Administration in connection with the submarginal land acquisition program under Title II of the National Industrial Recovery Act of June 16, 1933. The intent behind this and other similar acquisitions was that the lands would be transferred at some later time to the Indian community. The FERA issued a circular on June 7, 1934 in conjunction with this purchase of the land in which it stated that the objectives of the program include, "Improvement of the economic and social status of 'industrially stranded population groups,' occupying essentially rural areas, including readjustment and rehabilitation of Indian population by acquisition of land to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs." I sincerely believe that these objectives would be fulfilled by the transfer of the land to the Keweenaw Bay Indian Community.

Of the land involved here, 3,902 acres are forest lands which are used primarily for the production of timber under a timber management plan implemented by the Bureau of Indian Affairs. The principal marketable species are maple, aspen, hemlock, and yellow birch. Although sand and gravel are produced in the county, geological information indicates that no minerals of commercial nature are known to occur on or near the area.

The Bay Community intends to use the submarginal lands for timber production and also expects to clear some of the area for homesites. A portion of the reservation contains a good hunting area, and cabins could be built and rented to hunters during the season. The Department of Agriculture has also stated that if the submarginal land in the northern part of the reservation was cleared of timber, it might be suitable for the farming of certain types of crops. The prompt transfer of these lands to the Community would furnish an increased source of revenue to the tribe. The money from timber cutting permits and contracts which presently accrue to the government would not accrue to the tribe except that portion which the Bureau of Indian Affairs would charge to cover its administrative costs.

Mr. Chairman, and Members of the Subcommittee, on behalf of myself and the members of the Keweenaw Bay Indian Community, thank you for your consideration of this legislation. We hope you will expeditiously report it out to the full Committee.

MARVIN J. SONOSKY,
Washington, D.C., April 25, 1975.

Hon. LLOYD MEEDS,
Chairman, House Subcommittee on Indian Affairs, U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MEEDS: At the hearing held on H.R. 5778 on Thursday, April 24, 1975, the Chairman granted permission for me to furnish suggested changes in language.

I suggest the following changes for the consideration of the Committee:

1. *Page 1, lines 4 and 5.* Strike lines 4 and 5 and substitute the following: "title, and interest of the United States in all of the land that was acquired"

Explanation. As presently framed, the bill clearly conveys the interest of the United States in the land that was acquired under the emergency statutes enacted in the 1930's. However, it could be read to limit the transfer to those *improvements* that were acquired under those statutes. There were improvements such as fencing, water development, etc., placed on the land after acquisition. The suggested change would carry out the intent to transfer all improvements.

The phrase "all of" was added to express an intent on the part of the United States to divest of all land that falls into the submarginal category. This ties in with my suggestion numbered 5.

8. *Page 3, lines 1 and 2.* Strike lines 1 and 2 and substitute the following: "source and for whatever purpose, whether such receipts are in a"

Explanation. Language changed to conform to Item 7.

9. *Page 3, line 4.* Strike the last word "on" and substitute "as of".

Explanation. It would not be possible to deposit the receipts to the credit of the tribe *on* the date of the Act, nor is this necessary. The change would require that the credit be made *as of* the date of the Act. Such a direct directive from Congress is interpreted to mean that the credit must be done within a reasonable time, generally not to exceed 30 days.

I appreciate this opportunity to submit these suggestions.

Kind personal regards,

Sincerely,

MARVIN J. SONOSKY.

STATEMENT OF THE SHOSHONE-BANNOCK TRIBES, FORT HALL INDIAN RESERVATION, FORT HALL, IDAHO

Mr. chairman and members of the committee: The Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Fort Hall, Idaho, favorably support the enactment of HOUSE RESOLUTION 5778, which proposes to declare that certain submarginal lands of the United States shall be held in trust for certain Indian Tribes and be made a part of the Reservations of certain said Indians. As reflected in the provisions of the bill, 8710 acres of said submarginal lands would be donated to the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation.

The Tribes desire to more fully inform members of this committee with respect to the nature of the submarginal lands on the Fort Hall Indian Reservation. Attached to this statement, as Exhibit "A", is a chart demonstrating the location of these lands, the total acreage involved, the potential arable acres, the present use being made of these lands, the estimated yields in bushels per acre of winter wheat, and the counties in which said lands lie in the State of Idaho. As indicated in said chart, the majority of the lands are being used for range purposes. These lands contain valuable and essential livestock water and many miles of fencing which are critical to the Tribal livestock program. Additionally the Tribes are undertaking extensive range improvement programs on the Fort Hall Indian Reservation, which include these submarginal lands. Consequently, the loss of the submarginal lands would result in a substantial reduction in the number of animal units that are now being grazed by the Tribes. Acquisition of these lands in trust for the Tribes would permit the Tribes to expend monies on said lands for range improvements, development of livestock water sources, and increase the economic stability of the Indian people.

In many instances, the submarginal lands on the Fort Hall Indian Reservation represent a key tract which is essential to the development of an economic farm unit. Exhibit "B", attached to this statement, is a map of the Fort Hall Indian Reservation, identifying the location of the submarginal lands. The questionable ownership of these submarginal lands prevents the Tribes from committing Tribal funds and grants for the improvement of the farm lands. In many instances, the Tribes have hesitated to drill wells, fertilize, or cultivate said lands until such time as they are acquired in trust for the Tribes.

The title to the submarginal lands on the Fort Hall Indian Reservation was taken in the name of the United States, and they will not become the property of the Indian Tribes for whose use they were purchased until Congressional action is obtained; specifically, transferring such title. In as much as these lands were purchased for Indian use, the Shoshone-Bannock Tribes believe that it is time for Congress to live up to their commitment and transfer title of the lands to the Tribes in order that a long standing controversy may be settled, and the Tribes

may maintain confidence in the United States. The Shoshone-Bannock Tribes are concentrating on a consolidation of fractionated land on the Fort Hall Indian Reservation, and the transfer of the submarginal lands to the Tribes would greatly assist unifying and consolidating their land base. Such a transfer of lands would not reduce any tax base, in as much as the lands are already tax exempt.

The Congress of the United States has, in the past, transferred beneficial title to submarginal lands, which were purchased for Indian Tribes. There are at least five separate laws under which title to submarginal lands have been delivered to Tribes. These precedential transfers include: The Act of July 20, 1956 (70 Stat. 645) transferring trust title to its submarginal lands to the Seminole Tribes of Florida, the transfer of submarginal lands to the Burns Paiute Colony by the 92nd Congress (P.L. 92-488 86 Stat. 806), and the transfer of submarginal lands in the case of the Stockbridge-Munsee Indian Community by the same 92nd Congress (P.L. 92-480 86 Stat. 795).

In conclusion, the present title respecting submarginal lands on the Fort Hall Indian Reservation is unsatisfactory, because the Tribal management units are partially Federally owned and partially Indian owned. The Shoshone-Bannock Tribes have been reluctant to spend Tribal funds for any improvements on the submarginal lands on the Fort Hall Indian Reservation, because of their uncertain tenure. These submarginal lands are needed by the Tribes to obtain maximum utilization of their lands, and in order to augment their other income. If the lands are not turned over to the Tribes, proper utilization will not be possible, and the loss of the use of such lands would seriously affect the economic standards of the Tribes. If the title is transferred to the Tribes, further consolidation into acceptable range and farm units for grazing and farming purposes will be possible. For these reasons, the Shoshone-Bannock Tribes request the favorable consideration and passage of House Resolution 5778.

Respectfully submitted,

SHOSHONE-BANNOCK TRIBES.

T.	Location		Total Acres	Potential	Present Use	Estimated	Counties
	R.	Sections		Arable Acres Est.		Yields Bu/A Winter Wheat	
2	37	14, 15	300.44	150	Range	10	Bingham
2	37	34, 35)	818.41	120	Range	20	Bingham
3	37	1, 2)					
3	36	25)	540.03	250	Approx. 60.0 ac. under Irrig. Hay Remainder Range	15	Bingham
3	37	30)					
3	36	36)					
3	37	31)					
4	36	28, 32, & 33	500.00	175	Range	15	Bingham
5	37	5, 6, 9, 3, 4, & 10	1563.3	1000	Range & Farm	25	Bannock
5	38	21	160.0	30	Range	20	Caribou
6	38	5	640.0	80	Range	25	Caribou
6	36	3	320.0	80	Range	25	Bannock
10	33	1 - 12	3795.73)	2900	Farm & Range	20	Power
10	34	7	73.01)				

TOTAL: 8710.92

EXHIBIT "A"

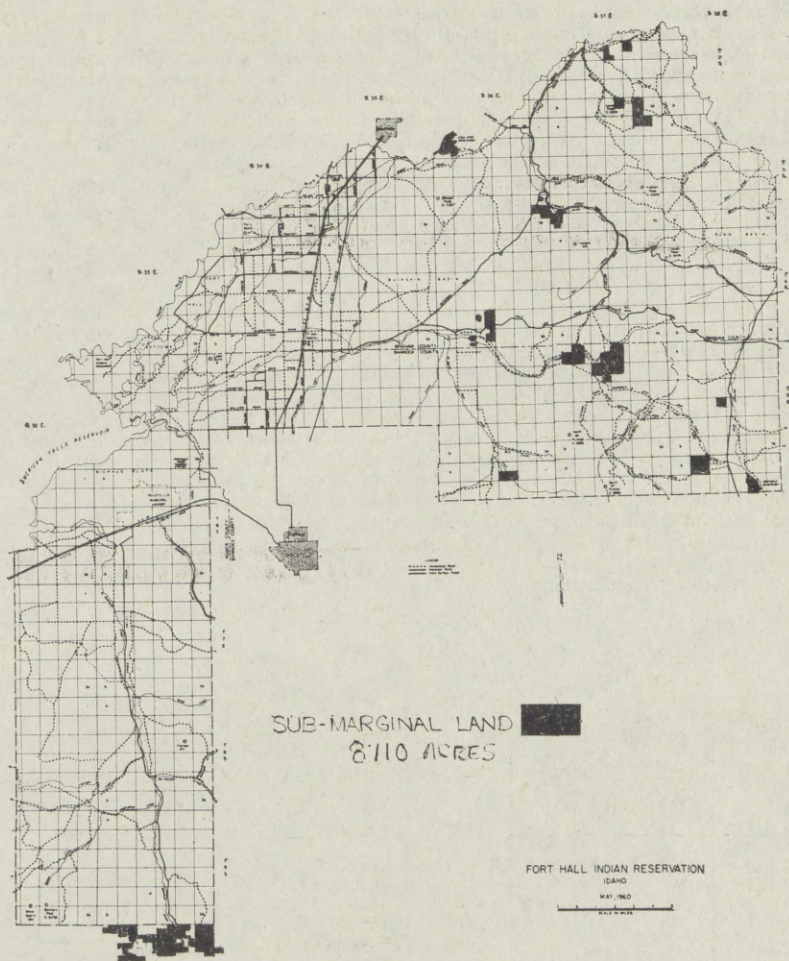
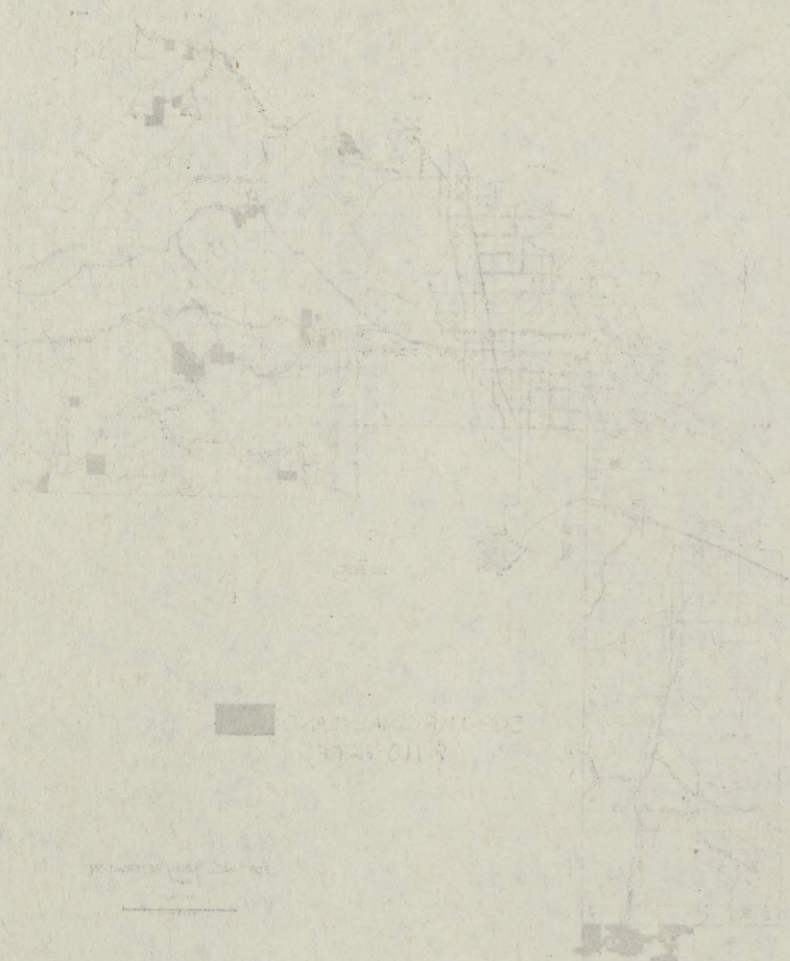


EXHIBIT "B"



CLARK COUNTY
ILLINOIS

1900-1910
1910-1920
1920-1930
1930-1940
1940-1950
1950-1960
1960-1970
1970-1980
1980-1990
1990-2000
2000-2010
2010-2020

1910

EXHIBIT "B"