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In 2/40 SUBMARGINAL LANDS AND TRUST LANDS
FOR CERTAIN INDIAN TRIBES

GOVERNMENT DOCUMENTS

Storage DEC 15 1975

KANSAS STATE UNIVERSITY

HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 241

A BILL TO DONATE TO THE DEVILS
LAKE SIOUX TRIBE, FORT TOTTON
RESERVATION, SOME SUBMARGINAL
LANDS OF THE UNITED STATES, AND
TO MAKE SUCH LANDS PART OF THE
RESERVATION INVOLVED

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A BILL TO PROVIDE THAT CERTAIN
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OTHER PURPOSES

S. 1327

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 RESERVA-
TIONS OF SUCH INDIANS, AND FOR
OTHER PURPOSES

MAY 9, 1975



Printed for the use of the
Committee on Interior and Insular Affairs

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WASHINGTON : 1975

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SUBMARGINAL LANDS AND TRUST LANDS FOR CERTAIN INDIAN TRIBES

FRIDAY, MAY 9, 1975

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

The subcommittee met, pursuant to notice, at 10 a.m., in room 3110 Dirksen Office Building, Hon. James Abourezk, presiding.

Present: Senator Abourezk.

Also present: Forrest Gerard, professional staff member.

OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. This is an open public hearing to take testimony from administration and tribal witnesses on S. 1327, a bill to provide for the transfer of the interest of the United States in and to certain submarginal lands to certain Indian tribes.

Also pending before the subcommittee are several bills providing for the transfer of submarginal lands to individual tribes as follows: S. 241, Devils Lake Sioux Tribe, Fort Totten Reservation; S. 423, Minnesota Chippewa Tribe, White Earth Reservation; and S. 536, Standing Rock Sioux Tribe, Standing Rock Reservation.

S. 1327 is a general bill transferring trust title to submarginal lands to various tribes, including earned income. The subcommittee hearing, therefore, will be addressed to this general bill. The lands involve approximately 400,000 acres purchased by the United States in the 1930's to assist economically distressed Indian tribes. The bill would affect 17 tribes in 9 States.

The acquisition of Indian submarginal lands evolved from a broader national effort, and, in my view, should be reviewed at the outset of this hearing.

In response to the severe economic crisis confronting the Nation in the 1930's, Congress authorized a national land program to accomplish "the purchase and retirement from farming of unprofitable, badly eroded, thin-soiled and exhausted land and the removal of the occupants to other more promising areas where they could be rehabilitated and thus taken off the relief rolls."

Another stated objective of the land program was "improvement of the economic and social status of "industrially stranded population groups' occupying essentially rural areas, including readjustment and

rehabilitation of the Indian population by acquisition of lands to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs."

The lands purchased under this program are commonly referred to as "submarginal." Although in nearly all instances the land was overworked and depleted, the term "submarginal" refers to the fiscal condition of farming operations, not to the condition of the land itself.

The authority to create certain agencies and a broad mandate to carry out the land program were provided to President Franklin D. Roosevelt by the Congress under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and Emergency Relief Appropriation Act.

The Roosevelt administration initially determined that 10 percent of the \$25 million made available to the Federal Emergency Relief Administration for the purchase of submarginal lands would go for Indian land projects to benefit those Indians under the Bureau of Indian Affairs.

By 1934, the amount provided for Indian submarginal land projects amounted to \$5 million, with five Indian "demonstration areas" authorized as follows: (1) checkerboard areas; (2) watershed or water control areas; (3) additional lands to supplement reservations; (4) lands for homeless Indian bands or communities forming acute relief problems; and (5) lands required for proper control of grazing areas.

As a result of several administrative changes, the Farm Security Administration of the Department of Agriculture in 1935 assumed responsibility for acquiring submarginal lands and administering the land program.

The FSA and the Bureau of Indian Affairs formalized an agreement in 1936 which authorized temporary administration of the submarginal land by the BIA for the "exclusive benefit" of the Indian tribes involved. Subsequent Executive orders transferred jurisdiction over the lands included 21 projects from the Secretary of Agriculture to the Secretary of the Interior.

Throughout the administration of the Indian submarginal land program, as evidenced by interagency agreements and memorandums, the intent was clear that (1) the lands were to be administered for the "exclusive benefit of the affected tribes" and that (2) the Department of the Interior would submit appropriate legislation to Congress recommending a trust transfer of these lands to the tribes involved.

Unfortunately, the Government's track record on the trust transfer has been sporadic at best. Congress in the past has enacted only five statutes conveying submarginal lands in trust, under varying conditions, to the Pueblos of New Mexico—two statutes, the Seminole Tribe of Florida, the Stockbridge-Munsee Tribe of Wisconsin, and the Burns Paiute Tribe of Oregon.

Seventeen tribal groups are still awaiting congressional approval of legislation to provide for the trust transfer of the submarginal lands for their full use and benefit.

The current legal status of the lands involved in S. 1327 poses a near ludicrous dilemma for both the Indian people and the Federal Government. With title being held by the United States under the loose concept of benefiting the Indians, the Indian people cannot treat the land as their own for full social and economic development endeavors and the United States cannot realize any reasonable utility from the land.

Generally, S. 1327 provides for the following: (1) that subject to all valid existing rights the submarginal lands in the bill are held in trust by the United States for each said tribe; (2) that such lands shall be administered in accordance with laws applicable to tribal property; and (3) that any and all receipts received prior to the date of enactment of this act shall be granted to the tribe receiving such land and may be expended for constructive programs approved by the tribal governing body.

It is my hope that this hearing will at long last represent the final step in fulfilling a long overdue commitment to the Indian people.

At this point, I shall order S. 1327 and the Departmental legislative report to be made a part of the record, along with S. 241, S. 423, S. 536, and several pertinent documents.

[The material referred to above follows:]

94TH CONGRESS
1ST SESSION

S. 1327

IN THE SENATE OF THE UNITED STATES

MARCH 26 (legislative day, MARCH 12), 1975

Mr. ABOUREZK (for himself, Mr. BARTLETT, Mr. BURDICK, Mr. DOMENICI, Mr. PHILIP A. HART, Mr. HUMPHREY, Mr. MCGOVERN, and Mr. MONDALE) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, subject to all valid existing rights, all of the right,
4 title, and interest of the United States in the land enumerated
5 below and the improvements thereon, that were acquired
6 under title II of the National Industrial Recovery Act of
7 June 16, 1933 (48 Stat. 200), the Emergency Relief Ap-
8 propriations Act of April 8, 1935 (49 Stat. 115), and
9 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 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:

Tribe	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 Courte Oreilles..	Lac Courte 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.....	Gallup-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

1 source and for whatever purpose which directly relate to any
2 land conveyed by this Act, whether such receipts are in a
3 special fund of the Treasury as required by section 6 of the
4 Act of August 7, 1947 (61 Stat. 913, 915), or not, shall on
5 the date of enactment of this Act be deposited to the credit
6 of the Indian tribe receiving such land and may be expended
7 by the tribe for such beneficial programs as the tribal govern-
8 ing body may determine.



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR

APR 23 1975

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary--Land and Water Resources

From: Associate Solicitor--Energy and Resources

Subject: Status of Fort Belknap Indian Community Lands

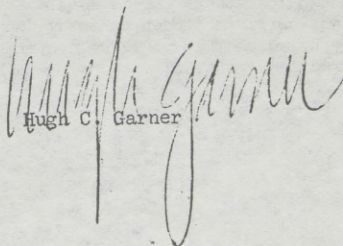
In your memorandum on this subject of April 15, 1975, you asked (1) whether minerals in the Fort Belknap lands which had never been out of federal ownership were subject to leasing under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. §§ 181-287), or under the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. §§ 351-359) and (2) whether receipts from such public domain minerals in the Fort Belknap lands should be distributed under the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. The second question is really embraced in the first, because the distribution of receipts would be the most significant difference between leasing under the one statute and leasing under the other. Of all receipts under the Mineral Leasing Act 37 1/2% are distributed to the States within the boundaries of which the leased lands are situated and 52 1/2% to the reclamation fund; revenues from acquired lands leases are distributed in a completely different manner. A proviso to section 6 of the Acquired Lands Act (30 U.S.C. § 355) specifically provides for the disposition of receipts from leases or permits issued under that statute for minerals and lands set apart for Indian use. Consequently, a determination that these minerals are subject to leasing under the 1947 Act rather than the 1920 Act would limit revenues payable to the State of Montana.

There is no question that mineral deposits, which were once in non-federal ownership and have been acquired by the federal government for the Fort Belknap lands, are in an acquired land status and subject to leasing only under the Mineral Leasing Act for Acquired Lands. However, where the United States granted title to public lands but reserved the minerals in those lands at the time of granting, the reserved deposits remained in a public land status and were subject to disposition only under the Mineral Leasing Act of 1920. Some positive action by Congress or by the executive branch pursuant to statutory authorization must be taken before those deposits can lose their public land status. To the best of my knowledge such an action has not been taken by Congress and there is no statutory authority by which they could be converted from a public domain status to an acquired lands status.

It has been suggested that, where the surface is in an acquired land status, reserved mineral deposits, even though they have never been disposed of and would thus appear to be in a public domain status, have nevertheless become subject to leasing under the Acquired Lands Act. I find nothing in the legislative history of the 1947 Acquired Lands Act which indicates an intention by the Congress to cause such reserved minerals to be made subject to the provisions of that statute. Prior to 1947 there was no question that reserved minerals in a public domain status were subject to leasing under the 1920 Act. Section 34 of the Mineral Leasing Act, as amended (30 U.S.C. § 182), specifically provides for the leasing under that statute of such reserved minerals. Accordingly, it is clear that those minerals now in the Fort Belknap lands which were originally in a public domain status and were reserved when the lands in which they were situated were granted were in a public land status prior to the enactment of the 1947 Act and subject to leasing under the 1920 Act.

If Congress had intended to make such reserved minerals subject to leasing under the 1947 Act, one would expect to find in the 1947 Acquired Lands Act a specific provision stating that it was applicable to certain minerals which were in a public domain status. There is no provision which specifically provides for the change of the status of any deposits from public domain to acquired lands. The only possible indication is the statement in section 3 (30 U.S.C. § 352) that deposits of certain minerals which are "owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States" shall be leased under the 1947 Act. It could be argued that the Fort Belknap mineral deposits were owned by the United States in 1947 and are now within acquired lands. However, the word "owned" was probably intended to mean deposits which had been acquired prior to the statute's enactment. The House Committee report indicates that a purpose of the legislation was to stimulate the exploration of new petroleum reserves by authorizing the leasing of mineral deposits where exploration had been retarded by lack of authority to lease. (H.R. Rep. No. 550, 80th Cong., 1st Sess. (1947) There had been no lack of authority to lease these reserved deposits for they were already subject to leasing under section 34 of the 1920 Act. There is nothing as far as I can determine in the legislative history of the Mineral Leasing Act for Acquired Lands which shows an intention to take minerals out of the 1920 Act and put them under the new statute. Moreover, I am unaware of any provision in any other statute providing for the transfer of minerals from the 1920 Act to the 1947 Act.

Accordingly, I am of the opinion that any mineral deposits in the Fort Belknap lands which have never been out of Federal ownership remain subject to the 1920 Act and are to be leased only pursuant to its provisions.


Hugh C. Garner



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 1 1975

Memorandum

To: Director, Bureau of Land Management
Through: Assistant Secretary--Land and Water Resources

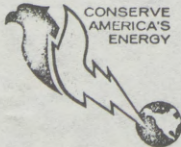
From: Associate Solicitor--Energy and Resources

Subject: Status of Fort Belknap Indian Community Lands

On April 23, 1975, I sent you a memorandum on this subject in which I explained the status of public land mineral deposits underlying surface in an acquired land status. This situation has arisen in some of the Fort Belknap lands where lands were originally public domain. Those public domain lands were transferred to private ownership subject to a mineral reservation to the United States. The reserved minerals remained subject to disposition under the Mineral Leasing Act, as amended and supplemented (30 U.S.C. §§ 181-287). Subsequently the surface of the lands was acquired by the United States.

The question asked was whether those public domain mineral deposits had become subject to the Mineral Leasing Act for Acquired Lands (30 U.S.C. §§ 351-359) upon the acquisition of the surface by the Federal Government. I informed you that those public domain mineral deposits remained subject to the 1920 Act and were not subject to leasing under the Acquired Lands Act. I remain convinced that that view was correct, and I now recognize that there is an even stronger argument to support that view than any which I had expressed in my memorandum of April 23.

Section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. § 352) provides for the leasing of deposits of coal, oil, and gas, oil shale and certain other minerals "which are owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States". Section 2 of that Act (30 U.S.C. § 351) states "'acquired lands' or 'lands acquired by the United States' include all lands heretofore or hereafter acquired by the United States to which the 'Mineral Leasing Laws' have not been extended" Section 2 also states "'Mineral Leasing Laws' shall mean . . . the Act of February 25, 1920," Where the surface was in an acquired lands status, but the minerals were subject to leasing under the 1920 Act, as in the case of the deposits



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underlying Fort Belknap with which we are concerned, the mineral leasing laws had been extended to those lands. Prior to the passage of the Acquired Lands Act on August 7, 1947, the Secretary had full authority to lease these mineral deposits under the Mineral Leasing Act of 1920. Accordingly, these lands do not come within the definition of either "acquired lands" or "lands acquired by the United States" as used in the 1947 Acquired Lands Act. Consequently, the Mineral Leasing Act for Acquired Lands cannot be applicable to these lands containing mineral deposits in a public domain status.

HUGH C. GARNER

Hugh C. Garner

cc:
Secretary's Files
DER RF
DER-Minerals RF
Mr. Strong ✓
Mr. Ferguson
Docket

FN Ferguson:bar:5-1-75



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 8 1975

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 1327, 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."

On April 28, 1975, we transmitted to the Senate 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 our proposed bill be enacted in lieu of S. 1327.

The provisions of S. 1327:

Section 1 of S. 1327 would declare that, subject to all valid existing rights, 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, are to be held in trust by the United States for the Indian tribes and groups identified in the bill. Section 1 describes the lands declared to be held in trust, and identifies the tribes and communities for whose benefit such transfer in trust shall be made.

Section 2 of the bill provides that the property subject to S. 1327 shall be administered in accordance with the laws and regulations applicable to Indian tribal property.

Section 3 of S. 1327 provides that all receipts directly related to the land conveyed by the bill which are received by the United States prior to the date of enactment shall, on the date of enactment, be deposited to the credit of the Indian tribe receiving such land. Such receipts may be expended by the tribe for such beneficial programs as the tribal governing body shall determine.

55 576 16



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The provisions of the Department's proposed bill:

Section 1 of our proposed bill, like section 1 of S. 1327, 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, and subsequent relief Acts, to be held in trust by the United States for the Indian tribes and groups identified in the bill.

However, our bill has a separate section, section 3, which would preserve and protect all valid existing rights which individuals may have in the land covered by the bill, and a description of such rights. S. 1327 preserves all valid existing rights in section 1.

Some of the submarginal lands are located within the taking areas of the Fort Randall, Oahe and the Big Ben 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 Ben Reservoir. Unless 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. Our 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.

Section 1 of our proposed bill would reserve 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 would further reserve 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. S. 1327 does not contain these express reservations.

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. The lands declared to be held in trust by both our proposed bill and by S. 1327 are identical, as are the tribes or communities for whose benefit such transfer in trust shall be made.

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. S. 1327 does not contain this provision.

Pursuant to section 6 of the Mineral Leasing Act for Acquired Lands (61 Stat. 913, 915) the receipts from the mineral leases on these lands have been deposited in a special fund in the U.S. Treasury. We cannot support section 3 of S. 1327, which would deposit to the credit of the tribes concerned all receipts received by the United States directly related to the lands conveyed. We believe these receipts belong in the general fund of the U.S. Treasury. Of course, all such receipts accruing subsequent to the recommended transfer to the tribes would be paid to the tribes.

The lands that would be transferred to trust status by both S. 1327 and 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:

Project	Reservation	Acreage	Original Cost
(Projects transferred by: Executive Order 7868, April 15, 1938; Executive Order 8473, July 8, 1940)			
Seminole, LI-FL-6	Seminole, Florida	27,086	\$ 92,800 <u>1/</u>
Fort Hall, LI-ID-2	Fort Hall, Idaho	8,711	133,213
L'Anse, LI-MI-8	L'Anse, Michigan	4,016	16,121
Twin Lakes, LI-MN-6	White Earth, Minnesota	24,114	156,236
Flat Lake, LI-MN-15	White Earth, Minnesota	4,436	19,428
Fort Peck, LI-MT-6	Fort Peck, Montana	85,338	412,302
Fort Belknap LI-MT-8	Fort Belknap, Montana	25,530	89,936
Blackfeet, LI-MT-9	Blackfeet, Montana	9,037	31,076
Standing Rock, LI-ND-10	Standing Rock, North Dakota	4,086	21,612 <u>2/</u>
Standing Rock, LI-ND-10	Standing Rock, South Dakota	6,878	24,911
Fort Totten LI-ND-11	Fort Totten, North Dakota	1,424	11,869
Delaware, LI-OK-5	Cherokee, Oklahoma	13,778	49,313
Adair, LI-OK-5	Cherokee, Oklahoma	4,960	10,934
Burns Colony, LI-OR-5	Burns Colony, Oregon	760	14,620
Pine Ridge, LI-SD-7	Pine Ridge, South Dakota	46,213	207,792
Cutmeat, LI-SD-8	Rosebud, South Dakota	10,089	52,803
Antelope, LI-SD-9	Rosebud, South Dakota	18,642	102,201
Crow Creek, LI-SD-10	Crow Creek, South Dakota	19,627	81,591 <u>3/</u>
Lower Brule, LI-SD-10	Lower Brule, South Dakota	14,290	56,990 <u>4/</u>
Cheyenne Indian, LI-SD-13	Cheyenne River, South Dakota	5,110	18,202 <u>5/</u>
Bad River, LI-WI-8	Bad River, Wisconsin	13,069	32,093
Lac Courte, LI-WI-9	Lac Courte Oreilles, Wisconsin	13,185	25,598
Stockbridge, LI-WI-11	Stockbridge, Wisconsin	13,077	69,546

(Projects transferred by: Executive Orders No. 7792, January 1, 1938; No. 7975, September 16, 1938; No. 8255, September 18, 1939; No. 8471, July 8, 1940; No. 8472, July 8, 1940; No. 8696, February 28, 1941; No. 8697, February 28, 1941).

Zia-Santa Ana, LI-NM-6	Zia-Santa Ana, New Mexico	46,391	\$ 85,323 <u>6/</u>
Laguna, LI-NM-7	Laguna, New Mexico	106,512	265,479 <u>6/</u>
Cuba-Rio Puerco, LI-NM-38-22	Laguna, New Mexico	85,610	150,860 <u>6/</u>
Acoma, LI-NM-8	Acoma, New Mexico	103,954	220,724 <u>6/</u>
Jemez, LI-NM-9	Jemez, New Mexico	113,141	282,853 <u>6/</u>
Isleta, LI-NM-11	Isleta, New Mexico	17,493	31,810 <u>6/</u>
Zuni, LI-NM-13	Zuni, New Mexico	62,028	131,177 <u>6/</u>
Gallup Two-Wells, LI-NM-18	Navajo, New Mexico	72,267	333,144
Sandoval County, New Mexico	San Idelfonso, New Mexico	5,914	<u>6/</u>

Footnotes:

- 1/ Held in trust by United States for the tribe, pursuant to Act of July 30, 1956 (70 Stat. 581).
- 2/ Includes 650.09 acres located within the Oahe Dam and Reservoir Project.
- 3/ Includes 495 acres located within the Fort Randall Dam and Reservoir Project.
- 4/ Includes 294 acres located within the Fort Randall Dam and Reservoir Project.
- 5/ Includes 1,509 acres located within the Oahe Dam and Reservoir Project.
- 6/ 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 August 13, 1949 (63 Stat. 604), 15 Federal Register 1851, and Act of August 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. Our proposed bill 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 similiar 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.

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

Sincerely yours,

Rayston C. Hughes

Assistant

Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D. C. 20510



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 2 1975

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

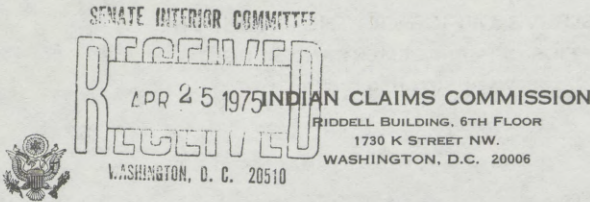
This is in reply to your request of April 8, 1975, for the views of the Office of Management and Budget on S. 1327, a bill "To declare that certain submarginal land of the United States shall be held in trust for certain Indian tribes and be made a part of the reservations of said Indians, and for other purposes."

On April 23, 1975, the Department of the Interior transmitted to the Congress a legislative proposal designed to achieve the same objectives, and recommended that it be enacted.

The Office of Management and Budget has no objection to the Department's proposal and recommends its enactment in lieu of S. 1327.

Sincerely,

James M. Frey
James M. Frey
Assistant Director for
Legislative Reference



The Honorable Henry M. Jackson
 Chairman, Committee on Interior
 and Insular Affairs
 United States Senate
 Washington, D. C. 20510

April 23, 1975

Dear Mr. Chairman:

This is in reply to your letter of April 7, 1975, enclosing a copy of S. 1327, 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 specifically requesting that we review this legislation to determine the appropriateness of applying the usual offset clause against the tribes who would receive the submarginal lands in question.

In determining the quantum of relief to be awarded successful claimants, the Commission is instructed by Section 2 of the Indian Claims Commission Act (60 Stat. 1049, 1050; 25 U.S.C. § 70a) that it may also inquire into and consider all money or property given to or funds expended gratuitously for the benefit of the claimant and if it finds that the nature of the claim and the entire course of dealings and accounts between the United States and the claimant in good conscience warrants such action, may set off all or part of such expenditures against any award made to the claimant, except that, inter alia: " * * expenditures under any emergency appropriation or allotment made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public work and public projects for the relief of unemployment or to increase employment, and for work relief (including the Civil Works Program) shall not be a proper offset against any award."

The Commission has considered the question of offsetting submarginal lands in two decisions, Seminole Indians of the State of Florida and Seminole Nation of Oklahoma v. United States, Dockets 73 and 151, 24 Ind. Cl. Comm. 1-20 (1970); and Pueblo de Zia, Pueblo de Jemez, and Pueblo de Santa Ana v. United States, Docket 137, 26 Ind. Cl. Comm. 218-264 (1971). The lands involved in these decisions had been purchased with funds supplied under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200) or subsequent acts for the relief of stricken agricultural areas throughout the United States. The Commission determined in each case that the claimed expenditures were prohibited as offsets by the above-quoted provision in Section 2 of the Indian Claims Commission Act. The United States Court of Claims affirmed the Commission's disallowance of offsets for submarginal lands in Docket 137 (The United States of America v. Pueblo de Zia, Pueblo de Jemez, and Pueblo de Santa Ana, 200 Ct. Cl. 601, 608 (1973), 474 F.2d 639).

The Honorable Henry M. Jackson

April 23, 1975

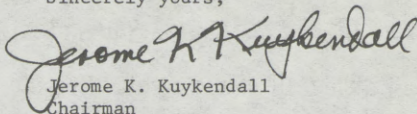
Since it appears that the lands involved in S. 1327 were acquired under Title II of the National Industrial Recovery Act of June 16, 1933, and other emergency appropriations or allotments made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, the application of the usual offset clause against the tribes who would receive these lands would be inconsistent with the provision quoted above from Section 2 of the Indian Claims Commission Act. This provision is an important part of the declared policy of the Congress in Section 2 as to the offsetting of gratuitous expenditures. Clearly, the inclusion of the usual offset clause in S. 1327 would be inappropriate.

The usual offset clause, if included in the bill, would direct the Commission to consider the question of offsetting the donated lands against the claims of the affected tribes. This directive would preclude the Department of Justice from exercising any discretion in excluding these trust lands from any claim for gratuitous offsets. Presumably, this circumstance would also seriously restrict the parties in any effort to expedite the entry of a final award by compromising the issue of gratuitous offsets.

All of the affected tribes cited in S. 1327, except the Cherokee Nation, are plaintiff parties in claims pending before the Commission. Some of these tribes are plaintiffs only in aboriginal land claims, others are plaintiffs only in accounting claims, and some are plaintiffs in both aboriginal land claims and accounting claims.

I trust this information will be considered responsive to the Committee's request and that you will call upon us if we can be of any further assistance.

Sincerely yours,


Jerome K. Kuykendall
Chairman

94TH CONGRESS
1ST SESSION

S. 241

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 1975

Mr. BURDICK (for himself and Mr. YOUNG) introduced the following bill;
which was read twice and referred to the Committee on Interior and
Insular Affairs

A BILL

To donate to the Devils Lake Sioux Tribe, Fort Totten Reservation, some submarginal lands of the United States, and to make such lands part of the reservation involved.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That all of the right, title, and interest of the United States
4 of America in the lands and the improvements thereon, that
5 were acquired under title II of the National Industrial Re-
6 covery Act of June 16, 1933 (48 Stat. 200), the Emer-
7 gency Relief Appropriation Act of April 8, 1935 (49 Stat.
8 115), and section 55 of the Act of August 24, 1935 (49
9 Stat. 750, 781), and that are now under the jurisdiction
10 of the Department of the Interior for administration for the

1 benefit of the Devils Lake Sioux Tribe of the Fort Totten
2 Reservation, North Dakota, are hereby declared to be held
3 by the United States in trust for this Indian tribe, and the
4 lands shall be parts of the reservation heretofore established
5 for the tribe.

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

94TH CONGRESS
1ST SESSION

S. 423

IN THE SENATE OF THE UNITED STATES

JANUARY 27, 1975

Mr. MONDALE (for himself and Mr. HUMPHREY) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, subject to valid existing rights, all of the right, title,
4 and interest of the United States in the lands, and the im-
5 provements thereon, that were acquired under title II of the
6 National Industrial Recovery Act of June 16, 1933 (48
7 Stat. 200), the Emergency Relief Appropriation Act of
8 April 8, 1935 (49 Stat. 115), and section 55 of the Act of

1 August 24, 1935 (49 Stat. 750, 781), and that are now
2 administered by the Secretary of the Interior for the benefit
3 of the Minnesota Chippewa Tribe, White Earth Reserva-
4 tion, are hereby declared to be held by the United States
5 in trust for said tribe, and the lands shall be a part of the
6 reservation heretofore established for the tribe.

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

94TH CONGRESS
1ST SESSION

S. 536

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1975

Mr. BURDICK (for himself, Mr. ABOUREZK, and Mr. McGOVERN) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the equitable title to the lands and interests in lands,
4 together with the improvements thereon, acquired by the
5 United States on or adjacent to the Standing Rock Sioux
6 Indian Reservation in North Dakota and South Dakota,
7 under authority of title II of the National Industrial Recovery
8 Act, approved June 16, 1933 (48 Stat. 200), the Emer-
9 gency Relief Appropriation Act of 1935, approved April 8,

1 1935 (49 Stat. 115), and section 55 of the Act entitled
2 "An Act to amend the Agricultural Adjustment Act, and for
3 other purposes", approved August 24, 1935 (49 Stat. 750,
4 781), administrative jurisdiction over which was transferred
5 from the Secretary of Agriculture to the Secretary of the Inte-
6 rior by Executive Order Numbered 7868, dated April 15,
7 1938, for the use and benefit of the Standing Rock Sioux
8 Tribe is hereby declared to be in the United States in trust for
9 the use and benefit of the Standing Rock Sioux Tribe in the
10 same manner and to the same extent as other lands held in
11 trust for the Standing Rock Sioux Tribe.

12 SEC. 2. Nothing in this Act shall deprive any person of
13 any individual right, ownership, right of possession, or con-
14 tract right he may have in any land or interest in land referred
15 to in this Act.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., April 8, 1975

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

MY DEAR MR. SECRETARY: This letter is to request a departmental report on S. 1327, 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.

In preparing your report the committee would appreciate your response to the following questions relating to the submarginal land issue:

1. What is the Department's standing policy regarding mineral interests when Federal lands are conveyed to Indian tribes to be held in trust by the United States?

2. Does the Department's policy with respect to the transfer of Federal land to Indians differ from its policy concerning the transfer of Federal land to non-Indians?

3. Provide the Committee with the best estimate of the current fair market value of the submarginal land tracts in S. 1327.

4. Provide the Committee with the most recent report reflecting accrued income for each of the submarginal land tracts in S. 1327.

(a) Identify the source of such income, i.e. minerals, grazing, farming, etc.

(b) Where are such funds currently deposited?

(c) Have such receipts been allocated to any unit of Federal, State, or local governments? If so, identify the entity and the amount of funds involved.

5. With respect to the submarginal lands in S. 1327 identify the following:

(a) those tracts located wholly within the exterior boundaries of Indian reservations;

(b) those tracts located partly within exterior boundaries of Indian reservations;

(c) those tracts abutting the exterior boundaries of Indian reservations; and

(d) those tracts located away from the exterior boundaries of Indian reservations.

6. Provide the Committee with a definitive description of each of the 17 submarginal land tracts in S. 1327 by metes and bounds descriptions.

Hearings have been scheduled on S. 1327 before the Subcommittee on Indian Affairs on May 9; therefore, we would appreciate your prompt response to this request for the legislative report.

Sincerely yours,

HENRY M. JACKSON,
Chairman.

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

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of April 8, concerning S. 1327, in which you requested the answers to several questions.

Following are the responses to each of your questions and the data needed to support the response.

1. What is the Department's standing policy regarding mineral interests when Federal lands are conveyed Indian tribes to be held in trust by the United States?

It has been the general policy of the Department to transfer subsurface rights along with the surface rights. 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. Only one of the five Acts—the transfer to the Stockbridge Munsee Indian Community—reserved the subsurface to the United States.

Public Law 93-599, enacted January 2, 1975, amended (40 U.S.C. 483) to provide for the disposal of certain excess and surplus Federal property to the Secretary of the Interior for any group, band, or tribe of Indians, placed no restriction on the transfer of subsurface rights at the same time as surface rights were transferred.

2. Does the Department's policy with respect to the transfer of Federal land to Indians differ from its policy concerning the transfer of Federal land to non-Indians?

The Department transfers very little land today and it does not transfer any land that has mineral values. In general, the Department follows the same general policy when transferring Federal land to non-Indians that it follows with reference to transfers to Indians, except when mineral values in commercial quantities are known to exist in the land. Furthermore, there can be no transfer of the subsurface estate in those instances where the subsurface has been reserved by either an Act of Congress or Executive or Secretarial Order.

3. Provide the Committee with the best estimate of the current fair market value for the submarginal land tracts in S. 1327.

Reservation	Original cost	Fair market value
Bad River.....	\$32,093	\$1,298,800
Blackfeet.....	31,076	542,220
Lower Brule.....	56,990	1,071,750
Crow Creek.....	81,591	1,472,025
L'Anse.....	16,121	402,200
Navajo.....	318,311	5,000,000
Rosebud.....	155,004	2,154,825
Cherokee.....	60,230	1,975,000
Cheyenne River.....	18,202	383,325
Fort Totten.....	11,869	106,800
Fort Belknap.....	89,936	1,276,800
Pine Ridge.....	207,792	3,489,150
Standing Rock.....	24,911	515,925
Fort Hall.....	133,213	304,850
Fort Peck.....	412,302	4,693,590
White Earth.....	175,664	2,855,000
Lac Courte Oreilles.....	25,598	1,818,500
Total.....	1,850,903	29,360,760

The fair market values above were arrived at using the best current field information available. There has been no on-the-ground survey and commercial appraisal of the submarginal lands.

4. Provide the Committee with the most recent report reflecting accrued income for each of the submarginal land tracts in S. 1327?

(a) Identify the source of such income, i.e. minerals, grazing, farming, etc.

Reservation	Income	Source of income
Bad River.....	\$114,396.60	Timber, pipeline rights-of-way.
Blackfeet.....	84,081.84	Grazing, minerals.
Lower Brule.....	25,358.20	Grazing.
Crow Creek.....	30,348.20	Do.
L'Anse.....	32,283.00	Timber.
Navajo.....	0	
Rosebud.....	97,884.70	Grazing, farming.
Cherokee of Oklahoma.....	0	
Cheyenne River.....	4,548.00	Grazing.
Fort Totten.....	2,318.40	Grazing, farming.
Fort Belknap.....	161,763.62	Grazing.
Pine Ridge.....	115,144.50	Grazing, minerals.
Standing Rock.....	17,741.72	Grazing.
Fort Hall.....	15,966.94	Grazing, minerals.
Fort Peck.....	2,886,461.65	Do.
White Earth.....	262,870.00	Grazing, timber, minerals.
Lac Courte Oreilles.....	88,270.00	Grazing, timber.

(b) Where are such funds currently deposited?

Receipts from commercial timber operations and 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 United States Treasury, but are segregated pursuant to the Act of August 7, 1947 (61 Stat. 913, 915).

(c) Have such receipts been allocated to any unit of Federal, State and local governments? If so, identify the entity and the amount of funds involved.

Funds derived from submarginal land have not been allocated and remain in the United States Treasury.

5. With respect to the submarginal lands in S. 1327 identify the following:

(a) those tracts located wholly within the exterior boundaries of Indian reservations;

1. Bad River
2. Blackfeet
3. Lower Brule
4. Crow Creek
5. L'Anse
6. Rosebud
7. Cherokee Tribe of Oklahoma
8. Cheyenne River
9. Fort Totten
10. Pine Rine Ridge Oglala Sioux Tribe
11. Standing Rock
12. Fort Peck
13. White Earth

(b) those tracts located partly within exterior boundaries of Indian reservations;

14. Fort Belknap
15. Fort Hall
16. Lac Courte Oreilles

(c) those tracts abutting the exterior boundaries of Indian reservations; and

None

(d) those tracts located away from the exterior boundaries of Indian reservations.

17. Navajo

6. In conversations with members of the Staff of your Committee question 6 was rephrased to read:

Provide the Committee with the legal description of each tract of land within each of the 17 submarginal project areas.

We have enclosed a list of the legal descriptions for each tract of land within each of the 17 submarginal project areas.

Sincerely yours,

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

INDIAN CLAIMS COMMISSION,
Washington, D.C., April 23, 1975.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of April 7, 1975, enclosing a copy of S. 1327, 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 specifically requesting that we review this legislation to determine the appropriateness of applying the usual offset clause against the tribes who would receive the submarginal lands in question.

In determining the quantum of relief to be awarded successful claimants, the Commission is instructed by Section 3 of the Indian Claims Commission Act (60 Stat. 1049, 1050; 25 U.S.C. § 70a) that it may also inquire into and consider all money or property given to or funds expended gratuitously for the benefit of the claimant and if it finds that the nature of the claim and the entire course of dealings and accounts between the United States and the claimant in good conscience warrants such action, may set off all or part of such expenditures against any award made to the claimant, except that, *inter alia*: “* * * expenditures under any emergency appropriation or allotment made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public work and public projects for the relief of unemployment or to increase employment, and for work relief (including the Civil Works Program) shall not be a proper offset against any award.”

The Commission has considered the question of offsetting submarginal lands in two decisions, *Seminole Indians of the State of Florida and Seminole Nation of Oklahoma v. United States*, Dockets 73 and 151, 24 Ind. Cl. Comm. 1-20 (1970); and *Pueblo de Zia, Pueblo de Jemez, and Pueblo de Santa Ana v. United States*, Docket 137, 26 Ind. Cl. Comm. 218-264 (1971). The lands involved in these decisions had been purchased with funds supplied under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200) or subsequent acts for the relief of stricken agricultural areas throughout the United States. The Commission determined in each case that the claimed expenditures were prohibited as offsets by the above-quoted provision in Section 2 of the Indian Claims Commission Act. The United States Court of Claims affirmed the Commission's disallowance of offsets for submarginal lands in Docket 137 (*The United States of America v. Pueblo de Zia, Pueblo de Jemez, and Pueblo de Santa Ana*, 200 Ct. Cl. 601, 608 (1973), 474 F.2d 639).

Since it appears that the lands involved in S. 1327 were acquired under Title II of the National Industrial Recovery Act of June 16, 1933, and other emergency appropriations or allotments made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, the application of the usual offset clause against the tribes who would receive these lands would be inconsistent with the provision quoted above from Section 2 of the Indian Claims Commission Act. This provision is an important part of the declared policy of the Congress in Section 2 as to the offsetting of gratuitous expenditures. Clearly, the inclusion of the usual offset clause in S. 1327 would be inappropriate.

The usual offset clause, if included in the bill, would direct the Commission to consider the question of offsetting the donated lands against the claims of the affected tribes. This directive would preclude the Department of Justice from exercising any discretion in excluding these trust lands from any claim for gratuitous offsets. Presumably, this circumstance would also seriously restrict the parties in any effort to expedite the entry of a final award by compromising the issue of gratuitous offsets.

All of the affected tribes cited in S. 1327, except the Cherokee Nation, are plaintiff parties in claims pending before the Commission. Some of these tribes are plaintiffs only in aboriginal land claims, others are plaintiffs only in accounting claims, and some are plaintiffs in both aboriginal land claims and accounting claims.

I trust this information will be considered responsive to the Committee's request and that you will call upon us if we can be of any further assistance.

Sincerely yours,

JEROME K. KUYKENDALL,
Chairman.



Cheyenne River Sioux Tribe

BOX 100 Phone 964-4155
EAGLE BUTTE, SOUTH DAKOTA 57625

WAYNE DUCHENEAUX HAZEL GARREAU MONA CUDMORE
CHAIRMAN SECRETARY TREASURER

May 7, 1975

Tribal Council

DONALD LAPIANTE
Vice-Chairman
District No. 1

PERCY MARROWBOWE
District No. 1

ALEX CHASING HAWK
District No. 2

LEVI RUNS AFTER
District No. 3

MANUEL SWAN
District No. 3

ROBERT KESSLER
District No. 4

CALVIN TRAVERSER
District No. 4

DELMA TRAVERSER
District No. 4

ROBERT BLUE COAT, Jr.
District No. 5

EVERETT DUPUIS
District No. 5

SANDRA LEBEAU
District No. 5

LOUIS VEO
District No. 5

WALTER WOODS
District No. 5

CERMAINE NEANS
District No. 6

ROBERT SMITH, Jr.
District No. 6

Honorable James Abourezk, Chairman
Senate Sub-Committee on Indian Affairs
1105 Dirksen Senate Office Building
Washington, D. C. 20510

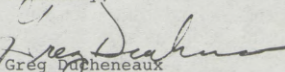
Dear Sir:

Enclosed please find the written testimony of Mr. Wayne Ducheneaux, Chairman, Cheyenne River Sioux Tribe, Eagle Butte, South Dakota 57625, in regards to S1327.

We are well aware of the importance of this bill to Cheyenne River. Mr. Ducheneaux would have liked very much to have been able to testify in person. However, due to important and pressing internal Tribal matters this is not possible.

Mr. Ducheneaux sends his apologies and is assured that the Bill is in capable hands.

Sincerely,


Greg Ducheneaux
Administrative Officer

GD/alc
Enclosures (25)

Thunder Clouds above the world. Thunderbirds control the 4 winds and the spotted Eagle is the Intercession, therefore the eagle feather on each side of the alm. Rainbow, with "Cheyenne River Sioux Tribe" printed because the rainbow signifies that we have the most sacred pipe (calf pipe) a gift from "Wakan Tanka". Two Columnar Peace Pipes fused together is for unity. One pipe is for the Sioux (Dakota) and the other for all native Americans. The red sacred hoop which shall not be broken. The sacred calf pipe which belongs to the 4 bands of the Teton Sioux. Six colors are used. Red, yellow, white, and black represent the 4 directions and also represents 4 major races of people. Blue for heaven and green for earth.

By S. Keith

TESTIMONY OF
WAYNE DUCHENEAUX
CHAIRMAN, CHEYENNE RIVER SIOUX TRIBAL COUNCIL
EAGLE BUTTE, SOUTH DAKOTA
ON S1327

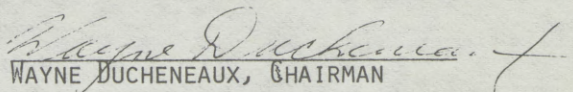
S1327 DEALS WITH SUB-MARGINAL LANDS ON THE VARIOUS RESERVATIONS IN THE UNITED STATES. THE FIRST QUESTION WE NEED ASK OURSELVES IS, "WHAT ARE SUB-MARGINAL LANDS?" IN THE CASE OF CHEYENNE RIVER SIOUX TRIBE IN PARTICULAR AND MOST RESERVATIONS IN GENERAL, THESE ARE LANDS THAT WERE OPENED FOR HOMESTEAD, FILED 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 DROUTH AND WIND BORNE EROSION THAT OCCURRED IN THE 1930's. THE SOIL OF THIS ONCE BOUNTIFUL LAND WAS SO SEVERELY LEECHED AND ERODED THAT IT COULD NO LONGER SUPPORT THE FARMERS WHO HOMESTEADED IT. THUS, THE TERM "SUB-MARGINAL." AS THIS LAND WAS THOUGHT TO BE BELOW THE MARGIN OF GOOD FARM LAND. 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 EXECU-

TIVE ORDER 7868 TRANSFERRED THIS LAND FROM THE AGRICULTURAL 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 EVER 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, CONSOLIDATING RANGE UNITS OR INCORPORATE THEM IN THEIR OVERALL ECONOMIC DEVELOPMENT PLANS. IT BECOMES VERY DIFFICULT TO DEVELOP FUTURE PLANS AROUND THESE LANDS WITH THE UNCERTAIN AND INDEFINITE NATURE OF THE TITLE TO THESE LANDS. THESE SUB-MARGINAL 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 OF CONGRESS TO FULFIL THIS PLEDGE.

SECTION 3 OF S1327 PROVIDES FOR CREDITING OF THE 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 S1327.


WAYNE DUCHENEUX, CHAIRMAN

CHEYENNE RIVER SIOUX TRIBE

EAGLE BUTTE, SOUTH DAKOTA 57625

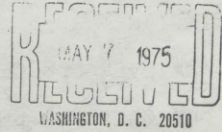
MICHAEL B. JANDREAU, Chairman
 GRACE ESTES, Vice-Chairman
 J. W. THOMPSON, Sec.-Treas.
 ANDREW R. ESTES, Chaplain
 JERARD JANDREAU, Sgt.-at-Arms
 KAY GOURNEAU, Member
 ORVILLE LANGDEAU, Member

Lower Brule Sioux Tribe
 LOWER BRULE, SOUTH DAKOTA 57548

TRIBAL OFFICE
 PHONE (605) 473-5561
 -or-

MAX 6 3 45 PM '75

April 28, 1975



Hon. Henry M. Jackson
 Chairman, Interior & Insular Affairs
 U.S. Senate
 Washington, D.C. 20001

Dear Mr. Jackson:

The Lower Brule Sioux Tribe urges your strong support of S. 1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the Tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than thirty years ago.

Your support and consideration will be greatly appreciated!

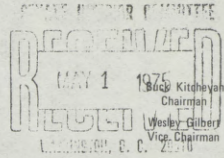
Sincerely,

Michael B. Jandreau
 Michael B. Jandreau
 Chairman
 Lower Brule Sioux Tribe

MBJ/cb

THE SAN CARLOS APACHE TRIBE

P.O. BOX 0
SAN CARLOS, ARIZONA 85550



APR 29 9 59 AM '75

(602) 475-2372

April 25, 1975

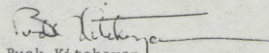
Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Sir:

The San Carlos Apache Tribe urges your strong support of S. 1327 and H.R. 5578 legislation calling for the transfer of title to submarginal Lands back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the Tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

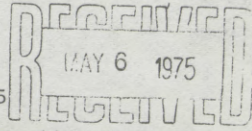

Buck Kitcheyan
Tribal Chairman

BK/md

BRISTOL BAY NATIVE CORPORATION

P.O. BOX 237
DILLINGHAM, ALASKA 99576
PHONE (907) 842-3070

SENATE INTERIOR COMMITTEE



April 29, 1975

Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. SENATE
Washington, D.C. 20510

Dear Honorable Jackson:

The Bristol Bay Native Corporation urges your strong support of S. 1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than (30) years ago.

Sincerely,

BRISTOL BAY NATIVE CORPORATION

Harold H. Samuelson
Harold H. Samuelson
President

HHS:ck

THE



HOPI TRIBE

SENATE INTERIOR COMMITTEE

 RECEIVED
 MAY 6 1975
 RECEIVED

P. O. BOX 123 WASHINGTON, D. C. 20510

ORAIBI, ARIZONA 86039

April 30, 1975

Hon. Henry M. Jackson
 Chairman, Interior & Insular Affairs
 U.S. Senate
 Washington, D.C.

Dear Honorable Jackson:

The Hopi Tribe of Arizona urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Abbott Sekaquaptewa
 Chairman
 Hopi Tribal Council

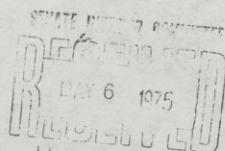
AS:ms



Quinault Tribal Council

POST OFFICE BOX 1118 □ TAHOLAH, WASHINGTON 98587 □ TELEPHONE (206) 276-4448

April 30, 1975



The Honorable Henry M. Jackson, Chairman
Interior & Insular Affairs
United States Senate
Washington, D. C..

Dear Senator Jackson:

The Quinault Indian Nation urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than thirty years ago.

Very truly yours,

Joseph B. De La Cruz
JOSEPH E. DeLaCRUZ, President
Quinault Indian Nation

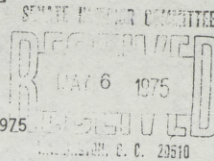
JBD:jj

John Colberg, Jr.
Chairman of the Board

Ralph A. Johnson
President



May 1, 1975



WASHINGTON, D. C. 20510

The Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
United States Senate
Washington, D. C.

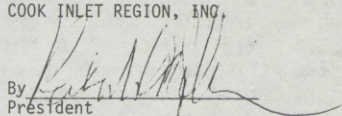
Dear Chairman Jackson:

The Cook Inlet Region, Inc. urges your strong support of S. 1327 and H. R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

COOK INLET REGION, INC.

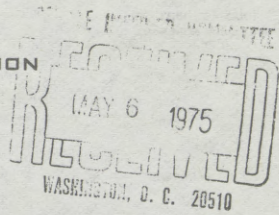
By 
President

RAJ:bf

FORT INDEPENDENCE INDIAN RESERVATION

P. O. BOX 67

INDEPENDENCE, CALIFORNIA 93526



April 29th, 1975

Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
United States Senate
Washington, D.C.

Dear Honorable Henry M. Jackson:

The Fort Independence Indian Reservation urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Yours Truly,

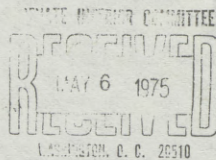
Vernon J. Miller
Vernon J. Miller
Chairman



208/267-3519

KOOTENAI TRIBE OF IDAHO

P.O. Box 1002
Bonners Ferry, Idaho
83805



WASHINGTON, D. C. 20510

Dear Sir,

The Kootenai Tribe of Idaho urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,
Amilia Trice

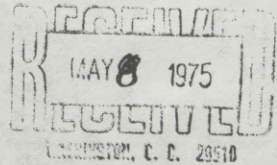


AMERICAN INDIAN CONSULTANTS, INC.

7120 EAST FOURTH STREET, SUITE 102
SCOTTSDALE, ARIZONA 85251

(602) 945-2635

April 29, 1975



Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D. C.

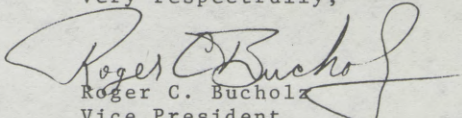
Dear Honorable Jackson:

The American Indian Consultants, Inc. urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Your help in the past is appreciated and we know your continued support will build for a brighter future.

Very respectfully,


Roger C. Bucholz
Vice President
AIC

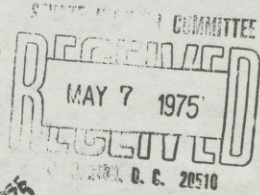
RCB/bh



DEVILS LAKE SIOUX ENTERPRISES
C O R P O R A T I O N
FORT TOTTEN, NORTH DAKOTA 58335

May 1, 1975

MAY 8 1975



MAY 9 1975

Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Mr. Jackson:

The Tribe urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic Development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely

Carl McKay

Carl McKay, Chairman
Devils Lake Sioux Tribe

MAY 2 9 02 AM '75

**SISSETON-WAHPETON SIOUX TRIBE
OF THE
LAKE TRAVERSE RESERVATION
SISSETON S. DAK. 57262**



SENATE INTERIOR COMMITTEE
RECEIVED
MAY 3 1975
WASHINGTON, D. C. 20510

April 29, 1975

Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Mr. Jackson:

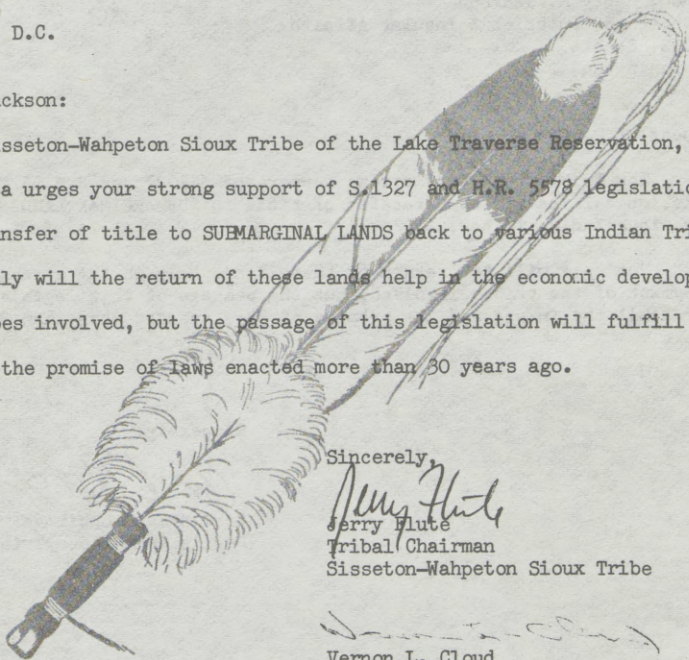
The Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, Sisseton, South Dakota urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Nerry Flute
Nerry Flute
Tribal Chairman
Sisseton-Wahpeton Sioux Tribe

Vernon L. Cloud
Vernon L. Cloud
Tribal Secretary
Sisseton-Wahpeton Sioux Tribe



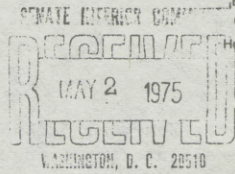


Florida Governor's Council on Indian Affairs

105½ E. College Avenue • Tallahassee, Florida 32302 • (904) 222-6295

O. B. Saunooke
Director

J. L. Chaves
Assistant Director



Buffalo Tiger
Co-Chairman
Howard Tommie
Co-Chairman

April 23, 1975

Honorable Henry M. Jackson
Chairman, Interior and Insular Affairs
U.S. Senate
Washington, D.C.

Honorable Jackson:

The Governor's Council on Indian Affairs urges your strong support of S. 1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely yours,

Osley B. Saunooke
Executive Director

OBS:jt

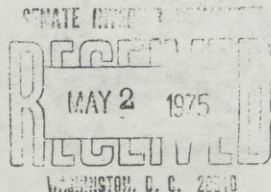
INTER TRIBAL COUNCIL OF ARIZONA

138 West Camelback Road

Phoenix, Arizona 85013

Telephone (602) 248-0071 Ext. 33

April 28, 1975



Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

TRANSFER OF TITLE TO SUBMARGINAL LANDS BACK TO CERTAIN INDIAN TRIBES

The Inter-Tribal Council of Arizona urges your strong support of Senate Bill 1327 and H.R. Bill 5578 legislation calling for the transfer of title to submarginal lands back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Pete Homer Jr.

PETE HOMER, JR. - EXECUTIVE DIRECTOR

dn

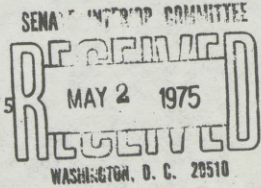


Inter-Tribal Council of California, Inc.

• P.O. BOX 246, INDEPENDENCE CA 93526 • PHONE (714) 878-2039

MAY 1 1975

April 28th, 1975



• Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C. 20510

Dear Honorable Henry M. Jackson:

The Inter-Tribal Council of California, Incorporated urges your support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and promise of laws enacted more than 30 years ago.

Sincerely,

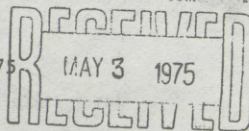
Terald H. Goodwin
Terald H. Goodwin
Administrative Assistant

MISSISSIPPI BAND OF CHOCTAW INDIANS



TRIBAL OFFICE BLDG.
ROUTE 7, BOX 21
PHILADELPHIA, MISS. 39350
TELEPHONE (601) 656-5251

SENATE INTERIOR COMMITTEE



April 29, 1975

The Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C. 20510

Dear Senator Jackson:

I would like to urge your support of S. 1327 and H.R. 5578, bills which would restore some 360,000 acres of submarginal land to Indian tribes west of the Mississippi.

This legislation has been pending for some 30 years, and would be extremely helpful to the economic development and the well-being of the members of the tribes affected. At this time when Indian policy is being re-assessed, I believe it would be a good gesture on the part of the United States Government to return these submarginal lands to the 17 tribes and communities involved.

Sincerely,

Phillip Martin
Tribal Chairman

PM/rjt

"CHOCTAW SELF-DETERMINATION"

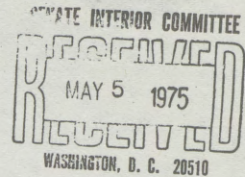
(602) 643-3543

MAY 3 11 05 AM '75

Kaibab-Paiute TribeTribal Affairs Building
FREDONIA, ARIZONA 86022

April 29, 1975

Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.



Dear Honorable Jackson:

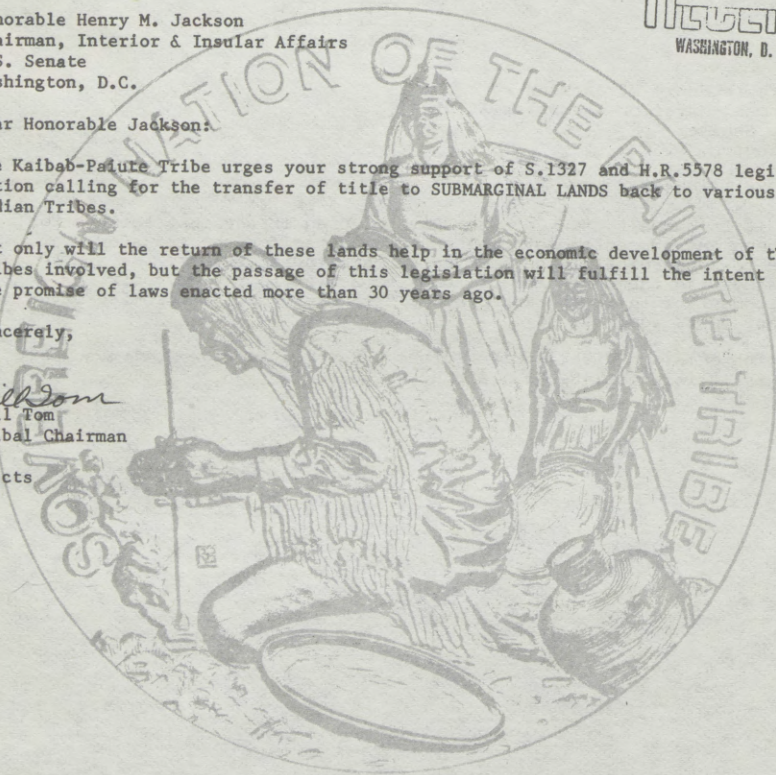
The Kaibab-Paiute Tribe urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Bill Tom
Bill Tom
Tribal Chairman

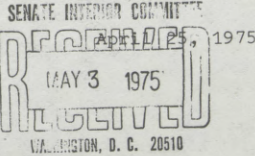
BT:cts





COLORADO RIVER INDIAN TRIBES
Colorado River Indian Reservation

ROUTE 1, BOX 23-B
 TELEPHONE 602-669-2293
 PARKER, ARIZONA 85344



Honorable Henry M. Jackson
 Chairman, Interior & Insular Affairs
 U. S. Senate
 Washington, D. C.

Dear Mr. Jackson:

It is known to the Colorado River Indian Tribes that legislation has been introduced to both houses of Congress for the transfer of title to submarginal lands back to certain Indian Tribes. We are in sympathy with these returns of lands to assist in the economic development of those Indian Tribes and to carry out the promise given so many years ago.

The Colorado River Indian Tribes urges you to give active support to this legislation, S. 1327 and H. R. 5578.

Sincerely yours,

Anthony Drennan Sr.
 Anthony Drennan, Sr.
 Chairman, Tribal Council

MOAPA BAND of PAIUTES

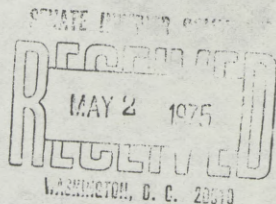


MOAPA RIVER INDIAN RESERVATION

BOX 56

MOAPA, NEVADA 89025

April 25, 1975



Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Hon. Jackson:

The Moapa Band of Paiute Indians urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Preston Tom
Tribal Chairman
Moapa Band of Paiute Indians

APR 28 1975



SENATE INTERIOR COMMITTEE
 RECEIVED
 MAY 2 1975
 WASHINGTON, D. C. 20510
 Kiowa Tribe of Oklahoma
 P. O. BOX 1028
 ANADARKO, OKLAHOMA 73005
 April 25, 1975

ALVIN B. DEER
 Tribal Administrator

Bob Cannon, Chairman
 Lawton

Dr. Everett Rhodes, Vice Chairman
 Okla. City

Ms. Juanita Ahtone, Secretary
 Carnegie

Rev. Linn Pauahy, (Ret'd) Treasurer
 Carnegie

Honorable Henry M. Jackson
 Chairman, Interior & Insular Affairs
 U.S. Senate
 Washington, D.C.

Dear Chairman Jackson:

Carl Kickingbird
 El Reno

Spencer Queton
 Lawton

Oscar Tsoodle
 Carnegie

Pressley Ware
 Anadarko

The Kiowa Tribe of Oklahoma urges your strong support of S. 1327 and H.R. 5578 legislation calling for the transfer or title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Respectfully yours,

Bob Cannon, Chairman
 Kiowa Business Committee



Onondas bringing several hundred bags of corn to Washington's starving army at Valley Forge, after the colonists had consistently refused to aid them.

Oneida Tribe of Indians of Wisconsin, Inc.

Oneida
ROUTE 1



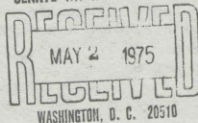
Wisconsin
54155

MAY 1 1975

April 28, 1975

Robert J. Cornell
House of Representatives
Washington, D.C. 20515

SENATE INTERIOR COMMITTEE



To the Honorable Congressman Cornell:

The Oneida Tribe of Indians of Wisconsin urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago. The land in question will in no way repay the heirs of ancestral lands lost so long ago. The returning of marginal lands is only a token payment. In addition said legislation should be written so as to guarantee its rightful owners, the American Indian Tribes receiving said land, all mineral and water rights.

Thank you for your anticipated cooperation.

Sincerely,

Robert L. Christjohn
Robert L. Christjohn
Tribal Administrator

RLC:wd

cc: President Gerald Ford
Dr. Theodore Marrs
Commissioner Morris Thompson
Hon. Stanley Hathaway
Hon. James Haley
Hon. Henry Jackson
Mr. Frank Zarb
Mr. John Hill
Hon. Lloyd Meeds
Hon. James Abourezk

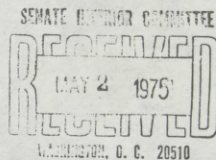


UGHWA DENOLUN TATEHE
Because of the help of this Oneida Chief in cementing a friendship between the six nations and the Colony of Pennsylvania, a new nation, the United States was made possible.

Lower Elwha Tribal Office
105 1/2 East First Street
Port Angeles WA 98362

MAY 1 1975

April 25, 1975



Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington D.C.

Dear Mr. Jackson:

The Lower Elwha Tribe urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

A handwritten signature in cursive script, reading "Gerald Charles".

GERALD CHARLES
Chairman



P. O. Box 95
San Juan Pueblo, New Mexico 87566
Phone (505) 852-4400

Tony Trujillo

Governor

OFFICE OF THE GOVERNOR
RECEIVED
MAY 19 1975
Herman Agoya
Lt. Governor
Jose E. Trujillo
2nd Lt. Governor

May 5, 1975

Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Mr. Jackson:

The Pueblo of San Juan urges your strong support of S.1327 and H.R. 5578 legislation calling for the transfer of title to SUB-MARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Tony Trujillo
Governor

cc: see attached list

TTRUJILLO:ja



Talk Together

American Indian Study Center, Inc.

A Project of the Baltimore Indian Community

211 SOUTH BROADWAY + BALTIMORE, MARYLAND 21231

Telephone, 301/732-8230

MAY 9 1975

TRIBAL COUNCIL

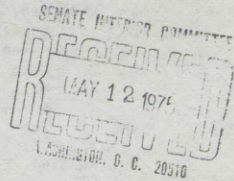
CARL (Hawk Bill) HARDING, (Lumbee)
 AVERY (Throwing Knife) LEWIS, (Pima)
 SOLOMON MAYNOR, (Lumbee)
 VONNIE OXENDINE, JR. (Lumbee)
 CALVIN PEVIA, (Lumbee)
 ROSCOE TYLER, (Lumbee)
 GEORGE JACOBS, Chairman, (Lumbee)

OFFICERS

HERBERT H. LOCKLEAR, AB, MSW, ACSW,
 President (Lumbee)
 EARL C. SCOTT,
 Vice President (Lumbee)
 VIRGINIA SIMMONS, BS,
 Secretary (Lumbee)
 ELIZABETH LOCKLEAR,
 Treasurer (Lumbee)

May 2, 1975

Hon. Henry M. Jackson
 Chairman, Interior & Insular Affairs
 U.S. Senate
 Washington, D.C.



Dear Sir:

The American Indian Study Center urges your strong support of S. 1327 and H.R. 5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely yours,

AMERICAN INDIAN STUDY CENTER

Herbert H. Locklear, President

HHL: lc

(A Non-Profit Tax Exempt Organization)

(Correspondence not valid unless signed or approved by the Tribal President)



CHITIMACHA TRIBE OF LOUISIANA



TRIBAL CENTER
P. O. BOX 661
CHARENTON, LA. 70523
318-923-4271

May 5, 1975

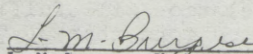
Honorable Henry M. Jackson, Chairman
Interior & Insular Affairs
U. S. Senate
Washington, D. C.

Dear Mr. Jackson,

The Chitimacha Tribe of Louisiana urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to Submarginal Lands back to various Indian Tribes.

Not only will the reurn of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,


L. M. Burgess, Chairman
Chitimacha Tribal Council
Chitimacha Tribe of Louisiana

LMB/pvs

NATIVE AMERICAN LOBBY
11252 Chestnut Grove Square #246
Reston, Virginia 22070

May 9, 1975

MAY 10 1975

The Honorable Henry Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C. 20510

Dear Senator Jackson:

The Native American Lobby urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back of various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Bill Gover

Bill Gover
President

BG/bt



POTAWATOMI
(Keeper of the Fire)

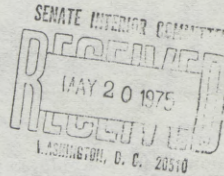
MAY 19 1975

HANNAHVILLE
INDIAN RESERVATION
ROUTE 1
WILSON, MICHIGAN 49896

May 15, 1975



Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C. 20013



Dear Hon. Jackson,

The Hannahville Tribal Council urges your support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Your support of S.1327 and H.R.5578 will be greatly appreciated by all Indian Tribes, not only by the tribes that will benefit thru the passage of this bill.

Sincerely,

Sally Halfaday
Sally Halfaday

Tribal Chairman



Hoop Valley Business Council

HOOPA VALLEY TRIBE

Regular Meetings on the First and Third Thursdays of Each Month

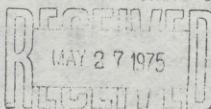
P. O. Box 817

HOOPA, CALIFORNIA 95546

Phone 625-4691



SENATE INTERIOR COMMITTEE



MAY 26 1975

May 21, 1975

WASHINGTON, D. C. 20540

Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Mr. Jackson _____ :

The (Tribe or organization) urges your strong support of S.1527 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Peter H. Masten, Jr.

Peter H. Masten, Jr.

SQUAXIN ISLAND TRIBE

Route 1, Box 257 • Shelton, Washington 98584

Florence Sigo - *Chairman*
Robert Whitener - *Vice Chairman*
Calvin J. Peters - *Secretary*



Apr 28 9 59 AM '75

Weasley Whitener - *Treasurer*
Calvin J. Peters - *Business Manager*
Florence Sigo - *Council Member*

April 24, 1975

Honorable Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.

Dear Honorable Henry Jackson:

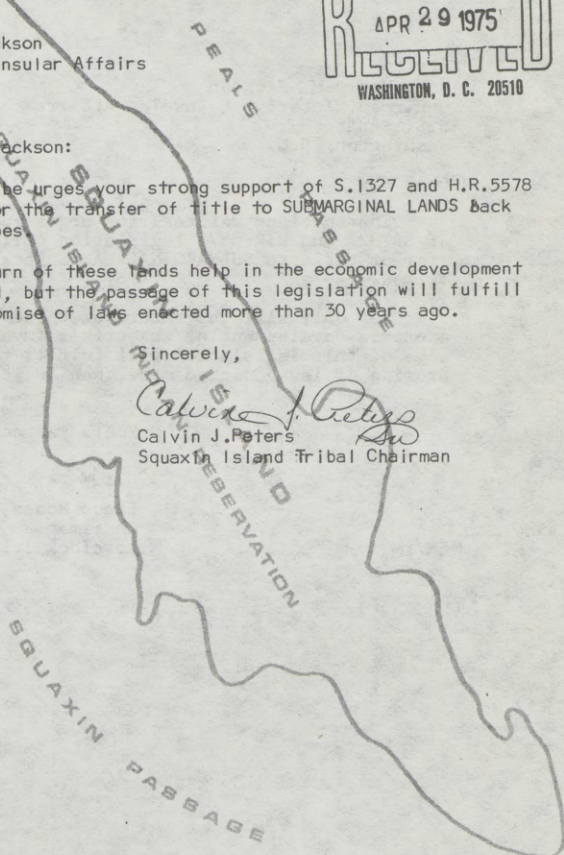
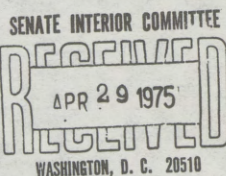
The Squaxin Island Tribe urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Sincerely,

Calvin J. Peters
Squaxin Island Tribal Chairman

CJP:sw





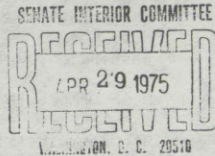
Lovelock Tribal Council

P. O. BOX 878
LOVELOCK, NEVADA 89419
Telephone 273-2861

APR 23 9 24 AM '75

April 25, 1975

Hon. Henry M. Jackson
Chairman, Interior & Insular Affairs
U.S. Senate
Washington, D.C.



Dear Sir:

The Lovelock Paiute Tribe urges your strong support of S.1327 and H.R.5578 legislation calling for the transfer of title to SUBMARGINAL LANDS back to various Indian Tribes.

Not only will the return of these lands help in the economic development of the tribes involved, but the passage of this legislation will fulfill the intent and the promise of laws enacted more than 30 years ago.

Yours respectfully,

Eldon Moose

Eldon Moose
Chairman
Lovelock Tribal Council

EM/rm

NATIONAL TRIBAL CHAIRMEN'S STATEMENT TO
THE U.S. SENATE ON FSA LANDS - S 1327

The National Tribal Chairmen's Association appreciates this opportunity to urge the Government of the United States to adopt and put into law Senate Bill 1327. We feel that the importance of this Bill is self-evident and deserves the same consideration given the Alaska Native Claims, Mt. Adams, Taos and Havasupai. This nation has absorbed nearly all of the Indian assets, however, the precedence set by the return of FSA lands to the Stockbridge Muncie and other Tribes offers a measure of encouragement to desperate people and desperate conditions.

The survival issues faced by Indian people from the very beginning, hinged upon the United States Governments ability to live up to its agreements which provided for on-going assurances of support and resources. In return for those assurances and agreements, the Indian Tribes across the nation ceded vast territories to accommodate the expansion and development of the American continent for the benefit of European emigrants. The erosion of treaty agreements precludes the chance of self sufficiency because approximately 50% of the Indians land base has been dissipated and that land which remains is checkerboarded and difficult to manage.

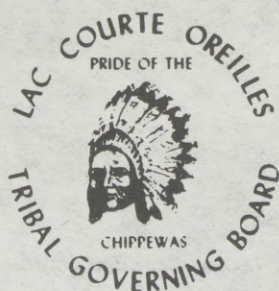
Even though FSA lands are available to Indian Tribes today, its usage is limited because of encumbered or clouded titles which in turn prevents and precludes any long term economic development planning. In addition, the Allotment Act of 1887 contributes further to the checkerboarding process. The Homestead Act and the Desert entry Act caused the loss of thousands of additional acres. Thus, the land and economic development is synonymous and is becoming more and more important.

The need for flexible start-up monies continues to assert its demand for

attention. Matching funds for other programs and projects often cause serious concern and prevent the implementation of viable programs. Limited resources in EDH and the Indian Financing Act imposed additional restraints for development. The accrued incomes from FSA lands now held by the United States Government could provide an important thrust to growth and self sufficiency.

This, then is an opportunity to add some luster to the tarnished banners of the American Republic. In the spirit of positive essentials, the National Tribal Chairmen's Association urges the quick passage of Senate Bill 1327 and commends the authors, and the Senate, for its genuine and positive attention. In addition, the National Tribal Chairmen's Association supports the return of subsurface rights and commends the author and the United States Senate for its courage. And in conclusion, the National Tribal Chairmen's Association supports and petitions for the return of all accrued incomes from FSA lands, now held by the United States Government, to those Indian Tribes, for it is apparent that Reservation conditions are desperate and our Indian people are deserving. Again, our compliments to the Senate.

Thank you very much.



RT. 2 STONE LAKE, WIS. 54876
Telephone 715-865-3611

*PRELIMINARY LAND USE PLAN
FOR*

*13,000 ACRES OF FSA LAND
ON*

*LAC COURTE OREILLES INDIAN RESERVATION
ROUTE 2
STONE LAKE, WISCONSIN*

PRELIMINARY LAND USE PLAN
LCO

TRIBAL STATEMENT

The Lac Courte Oreilles Tribal Government wishes to go on record in support of:

A. HR. 5578

B. S. 1327

Which provides for the return of approximately 13,000 acres of FSA land on or near the Lac Courte Oreilles Indian Reservation. In addition to the land returns, the Lac Courte Oreilles Tribe petitions that all the accrued income, amounting to approximately \$54,000.00, and any sub surface minerals be conveyed to the U.S. in trust for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

HISTORICAL AND CULTURAL BACKGROUND

The Lac Courte Oreilles Reservation and its Chippewa population take their name from the lake located on the western edge of the Reservation. Lac Courte Oreilles is French meaning "short ear". The name is believed to have originated due to the fact that the Indians of this area did not pierce their ears and weigh down their ear lobes; as was the practice of other Indians at the time of the presence of early French explorers. The Chippewa had earlier named the lake 'Odad-wah-sak-ga-e-gun', meaning Ottawa. According to William W. Wauert, the reason for the original lake name was due to the fact that a party of Chippewa hunters had discovered on its shores, the frozen body of an Ottawa Indian who may have been part of a hunting party which had extended to this remote point.

The Lac Courte Oreilles Reservation was established by treaty in 1854. However, the written history of the area and that of the Chippewa, predates this event by nearly two hundred years. Although there is evidence to suggest that the area was first the home of the Prehistoric Mound Builder of the Early Woodland Period (500B.C.), the known history of the region began in 1661, when two Frenchmen--Radisson and Groseilliers wintered at a Huron village at the present site of the Reservation.

The first Chippewas are believed to have entered the area in about 1745. By 1767, when Captain Jonathan Carver traveled up the

Chippewa and Couderay Rivers, he found several Chippewa villages in the area. He describes one of them as follows:

"Near the heads of this river is a town of the Chippewas', from which it takes its name. It is situated on each side of the river (which at this place where is no considerable breadth) and lies adjacent to the banks of a small lake. This town contains about 40 houses, and can send out upwards of 100 warriors, many of whom are fine stout young men. The houses are built after the Indian manner, and have neat plantations behind them."

The first permanent trading post was built in 1800 by Michael Cadotte for the Northwest Fur Trading Company. John Corbin became clerk of the post and the area's first permanent white settler. In the years to follow, the white man visited Lac Courte Oreilles in larger numbers. Henry Schoolcraft, an Indian Agent for the Michigan territory, visited the area in 1831, hoping to bring peace between the Chippewas and the Sioux. By 1860 Father John Chebul was successfully bringing Christianity into the area. The lumber industry brought the white man in large numbers during the 1870's.

Some twenty-five years after passing of the Dawes Act in 1887, the process of alienation began. Parcels of land lying adjacent to the prominent water ways were purchased from Indian people who were experiencing desperate financial conditions. There were few resorts in the area at that time. Mr. Henry Smith, an elderly member of the Lac Courte Oreilles Tribe, states that "there were three resorts relatively near the Eastern boundaries of the Lac Courte Oreilles

Reservation. One resort was situated on the West fork of the Chippewa River, one on Barker Lake to the East, and the one on Moose Lake which is North of the Reservation lines. On the Eastern portions of the Reservation, a few summer homes and resorts were situated on the big Lac Courte Oreilles and Grindstone Lakes." It was during this period that plans for the development of the Chippewa Flowage as a storage reservoir for down stream power was in the planning stage and as a result of this project and the Dawes Act, substantial acreages of Tribal lands were alienated by white people who had access to technical data involving development projects. During this time, back lands above the high water marks of the future Flowage Reservoir were purchased.

In approximately 1922, the Tainter Gates were closed and the Chippewa Flowage Reservoir was finally created. Immediately after this occurrence, the potential for tourism and resort industry was recognized, however, the lack of modern transportation did not permit rapid development. Much of the transportation in the area was done with horse and buggy and transportation from Chicago and other cities to the area was by train. The substantial stands of timber were available and the abundance of all natural resources that were committed to survival of the Lac Courte Oreilles Tribe by treaty was relatively untouched and available. The flooding of the Chippewa River waterway virtually wiped out a major portion of resources needed for survival and also had a devastating effect upon the balance of the eco system. Gone forever was habitat for the ducks, muskrat, beaver, deer, timber resources, home sites for Indian people as well as the berries and the medicinal herbs necessary for Tribal survival. Today the loss in wild rice alone represents approximately \$125,000.00 annually.

After the creation of the Chippewa Flowage Reservoir and the destruc-

tion of the Tribal natural resources, the appearances of boat landings and the establishing of resorts began. Approximately mid 1930's, better highways from Chicago and other urban cities along with better automobiles provided for an increase in tourism and provided also for increased activities in the resort industry. The attitude of tourists or sports fishing in the early days were such that they only caught what they could eat and trophy fishing rather than quantity was an incentive. From the mid 1930's, the expansion of tourism increased rapidly until today there exists a major tourist industry which attracts approximately Two Million Dollars to the area annually.

In 1953, Public Law 280 stripped the Tribe of civil and criminal jurisdiction and made it much more difficult to control the resources and to preserve the natural resources. It is important to note that during the depression years, and in light of high unemployment, it was necessary for Tribal members to harvest natural resources in order to provide for families. This dependency has continued throughout the years, not only as a cultural attitude, but also in response to insufficient economic supports in terms of jobs and economic development. Thus hunting and fishing and the preservation of the natural resources become an important feature of survival strategy.

Historically, the Lac Courte Oreilles Tribe has not restricted hunting and fishing. Attitudes of past administrations which embraced termination philosophy have proved itself to be a serious disadvantage to survival. Increased fishing pressure from the mid 1930's to the present has seriously depleted the fishing resources. Increased hunting pressure upon the Reservation demands corrective regulations to preserve these resources to the Tribal members who depend on availability for survival.

The devastating effects of land lost through the alienation of allotted lands by non-Indians, together with 13,000 acres of FSA land, is now being felt by the Lac Courte Oreilles Tribal members and the various agencies that serve the needs of Tribal housing and health.

LOCATION

Lac Courte Oreilles is located in western Sawyer County in northern Wisconsin. It is located in an area of the state which has a population density of approximately 7-12 persons per square mile. The township of Hayward is located six miles to the northwest of the Reservation, while the township of Couderay is located two miles south. The village of Reserve can be found near the western border in the Reservation, as can be Northwoods Beach. The village of New Post is located near the eastern boundary within the Reservation. Parts of Lakes Chippewa, Grindstone, and Lac Courte Oreilles can also be found in the Reservation.

State Highway 70 serves the southern portion of the Reservation, while various County roads (E, N, NN, CC, X) also serve the Reservation. The remaining transportation routes in the area are comprised of town roads and the Soo Line Railroad, which serves the southern portion of the Reservation.

PHYSIOGRAPHIC DESCRIPTION

Area--The Lac Courte Oreilles Reservation was established by the treaty of 1854 with the United States Government. The total land base is comprised of 69,506.76 acres. Today, only 5% of the land is tribally owned; with the Reservation being divided between Tribally owned land, FSA land, allotted or heirship land, and non-

Indian land. (See Table 1)

Like many other Reservations throughout the United States, Lac Courte Oreilles has developed into a disorganized checkerboard pattern of land ownership. If any organized pattern does exist, it is that the ownership of the more desirable lands has left Indian hands. Further complicating land distribution patterns at Lac Courte Oreilles, are the substantial FSA holdings on the Reservation. These lands were purchased by the Farm Security Administration by executive order during the depression. The intent was to hold these lands for the use of the members of the Reservation, and to eventually release them to the Tribe. Such has not been the case and the lands are currently being administered by the Bureau of Indian Affairs.

TABLE 1

LAND OWNERSHIP
ON THE
LAC COURTE OREILLES RESERVATION
1973

<u>OWNERSHIP</u>	<u>ACREAGE</u>	<u>PERCENT</u>
Tribal Land	3,120.60	5%
FSA Land	13,306.32	19
Allotted Land	26,780.20	39
Non-Indian Land	26,299.64	37
TOTAL	<u>69,506.76</u>	<u>100%</u>

Geologic Description--Like most of northern Wisconsin, the terrain of Lac Courte Oreilles has been subdued by numerous glaciers. This geologic activity has produced ground moraines, outwash plains, and end moraines. Virtually all of the Reservation is a pitted outwash area.

The Reservation is widely covered by undifferentiated sedimentary and metasedimentary rocks. The upper portion of the bedrock consists of quartzite and slate, while the lower portions are comprised of rock conglomerates and local iron formations.

The Ice Age, which began about one million years ago, is primarily responsible for the landforms of the area. There were four stages of continental glaciation but the most recent stage, the Wisconsin stage, (over seven thousand years ago) was responsible for the present landforms.

The landforms that resulted from glaciation have been modified over the years by erosion due to wind and water action. Glacial outwash deposits of sand and gravel are common.

Topography--The Lac Courte Oreilles area is one of gently undulating terrain with considerable amounts of flat lands and swamp areas. The receding glaciers left numerous shallow lakes and pitted outwash areas within the Reservation. A good deal of the area is covered by beautiful forests making much of the area a "wilderness".

The major drainage area is the Chippewa Flowage, which is one of four major river watersheds in northwestern Wisconsin. The river slopes

are generally not as steep as the rivers draining into Lake Superior and several stretches of relatively slow stream flow are present.

The rivers and streams are used for recreational, industrial, domestic and agricultural purposes; depending upon their location, quality, stream flow, temperature, and other characteristics. Recreational uses include canoeing, hiking, swimming, fishing, and sight seeing. The rivers are not navigable by large boats, however, short stretches are used by small boats and canoes.

Climate--The climate in the Lac Courte Oreilles area is classified as continental, a climate type characterized by large seasonal and daily ranges in temperatures. Winters are long, cold, and snowy. Summers are relatively short and warm with brief periods of hot, humid weather. Springs and falls are often short with sharp day-to-day temperature changes. All seasons have frequent weather changes, as alternate high and low pressure systems move across the continent from west to east. The long term annual average temperature is 41 degrees Fahrenheit. December through March temperatures generally average below 32 degrees Fahrenheit. The date of the last killing frost in Lac Courte Oreilles in the last five years has ranged from May 15 in 1968 to June 13 in 1969. Average monthly temperatures from a low of 1.5 degrees in January to 83 degrees in July. The growing season averages about 120 days.

Annual precipitation including snowfall, is about 32 inches. Monthly precipitation averages, range from a low of 0.95 inches in January to a high of 5.02 inches in August. Approximately two-thirds (66%) of the precipitation occurs during the growing season (May through

September). Snowfall averages between 60 and 70 inches per year.

Thunderstorms have occurred on an average of 32 days a year with a maximum of 45 and a minimum of 20 per year. About two-thirds of them occur during June, July and August. Hail has accompanied these thunderstorms on the average of 2 to 3 times per year. Since 1916, there have been four tornadoes confirmed in Sawyer County.

Prevailing winds are from westerly directions from late fall through early spring, and from southerly directions the remainder of the year. April is the windiest month, with an average wind speed of about 13 miles per hour (mph), while July and August are least windy, with averages of about nine mph. The wind has averaged less than four mph about 10% of the time, four to 12 mph about 50%, 13 to 31 mph about 40%, and greater than 31 mph less than one percent of the time. The highest wind velocities are usually from the northwest, southwest or west.

Duration of daylight as measured by the time interval between sunrise and sunset, varies from approximately 15.5 hours in June to 8.75 hours in December. Possible sunshine averages over 60% from late spring through early fall, nearly 40% in late fall and early winter, and between 50 and 60 percent for the remaining months.

Relative humidity varies from an average winter night-time maximum of 80%, to an average daytime minimum of about 70%. Comparative summer averages are 80% and 55%.

Implications of Lac Courte Oreilles' Climate--The climate in the Lac

Courte Oreilles area with its many daily and seasonal changes, is generally conducive to mental and physical efficiency and indoor and outdoor activities. Summers are pleasant, while winters are, on the average, vigorous without being overly severe. The average number of heating degree days (the positive difference between 65 degrees Fahrenheit and the daily mean temperature, cumulative over the number of such days in the year) is between 9,000 and 9,700. Heating expense is high, but relatively cool summer temperatures result in savings in cooling and air conditioning.

Lac Courte Oreilles' climate is favorable for summer and winter recreation. Summer days are usually warm and sunny, while nights are cool--a welcome relief for those seeking escape from the heat and humidity of large cities. The weather in autumn is often dry, cool and sunny, with several periods of Indian Summer and an unusual display of colors. Winters are early with a good chance of enough snow on the ground for snowmobiling and skiing from early or mid-December into late March. Streams and lakes are usually ice covered from late November into April.

Natural Vegetation--The Reservation is in the transitional zone of mixed vegetation, combining deciduous vegetation of maple, birch, hemlock, and hickory; with coniferous vegetation consisting mainly of white pine. Over 76% of the Reservation is covered by forest with the majority of the forest being comprised of maple, hemlock, and yellow birch.

The total volume cut on the Reservation for 1972 was the equivalent of 632,000 board feet, with a stumpage value of \$6,972 which was predominantly governmental. The Tribe had a volume cut of 74,000 board

feet with a stumpage value of \$835.

Soils--The Reservation is basically covered by three various soils. The majority of the area is covered by silt loam, with heavy sub-soil, with other portions being covered by light sandy loam and peat and muck soils. Only the silt loam has any agricultural value with small grains, corn, clover, and grasses being the recommended crops. Light sandy loam is suited for clover, rye, soybeans, and potatoes, whereas hay is recommended for the peat and muck soils.

NATURAL RESOURCES

The Reservation's biggest resource, human, is grossly misused. (This subject will be discussed further on in the report.) Other resources with potential commercial value are its land, forests, and water acreages. A statement concerning stumpage fees for the Reservation was stated earlier in the Natural Vegetation section. From the Annual Forest Report of 1972, it was reported that the year ended with favorable market conditions and generally improved prices for all products and species. Fishing would be the only other natural resource that could be of any other commercial value, and would be very limited.

EXISTING LAND USE AND LAND USE STUDY

Land Use Methodology--Topographical maps of the Reservation were obtained as a starting point and a personal tour of the Reservation was made to identify, code, and measure each land use, according to the formal presentation in Tables 11 and 111; which was recommended by Don Weso of Keshena, formerly a draftsman with the East Central Wisconsin Regional Planning Commission.

Single and multi-family dwellings, mobile homes, homes on lake frontages, vacant residential dwellings, and general related businesses were assumed to occupy .5 acres of land. Also a field measure was made of non-residential structures by pacing them off and adding 20% of the building size. Usages without structures were determined by the use of plat books.

The areas of open space, wetland, forested wetlands, forested lands, and measurable water acres were measured by a planimeter from topographical maps. The plat books and BJA maps were used to calculate the acreage of restricted allotments, FSA, tribal, and private lands.

The types of data collected were the land use incident count, which was an actual count of the various land uses; and land use measurements analysis, which was an actual measurement of land use in various land use classifications. Finally, a personal inventory of the physical condition of the dwelling was taken.

CHETEK-PENCE-ONAMJA: Soils of this association occupy nearly level to rolling pitted glacial outwash plains. These well to somewhat excessively drained soils have developed in sandy loam material over stratified sands and gravel. They are moderately productive, if irrigated, for potatoes and other specialized crops. They are also excellent sites for Norway pine plantings. Although they are erosive on slopes, they present few limitations to residential, industrial, or transportation development. They are also good sources of sand and gravel.

CLOQUET-VILAS: Soils of this association occupy sloping to steep glacial uplands. The Cloquet soils have formed in shallow sandy loams to loamy sands over a brown to weak reddish-brown cobbly loamy sand glacial till. The Vilas soils have formed in deep loamy sands and sands which may or may not contain some gravels. Both of these soils are excessively drained. Along with their droughtiness, these soils generally occur on steep complex slopes that are erosive when cleared. Most of this association is forested and this is its best use. Stoniness is variable and pot-holes and peat marshes are common.

SANTIAGO-MILACA-FREEON: These soils have from twelve to thirty inches of silty materials over a reddish-brown sandy loam to loam glacial till. They occur on gently sloping to moderately steep glacial uplands. The well drained Santiago and Milaca soils occupy the higher ridges and steeper slopes. Freeon soils are moderately well drained and occur on the more gentle lower slopes. Agricultural production is relatively good on soils in this association that occupy the more gentle slopes. Northern hardwoods do well on these soils. Erosion and low fertility are the major limitations to agricultural uses. Moderate to severe restrictions for foundations and sewage effluent disposal are also present in parts of this association. Stoniness may be another problem affecting development on these soils.

IRON RIVER-PENCE: This association has gently sloping to steep uplands dissected by many streams. Peat swamps and small lakes are plentiful. The Iron River soils make up the greater part of this association. They have formed in less than 24 inches of silty or loamy material over a brown, light sandy loam glacial till. The Pence

soils are excessively drained sandy loams or loams less than 20 inches thick over stratified sands and gravel. Most of this association is forested. Areas of the Iron River soils that have been cleared are moderately productive. Stoniness is often a problem, but there are few other limitations to development on this association on moderate slopes.

ANTIPO-BRILL-POSKIN: Soils of this association occupy nearly level to gently sloping glacial outwash plains and stream terraces. They have formed in 20 to 40 inches of silty material over loose stratified sands and gravel. Antipo soils are well drained, Brill soils are moderately well drained and the Poskin soils are somewhat poorly drained. These soils can all have a temporary high water table during the spring and high intensity storms. Poskin occupies a lower position in the landscape and has a more permanent high water table. This association includes some of the most desirable farmland in the region. The major problems for agricultural use are low fertility, acid conditions, erosion, high water table and droughtiness. Most areas are well suited for farmland, woodland and wildlife. There are also excellent sites for residential and industrial development.

DESCRIPTION & CHARACTERISTICS OF FSA LAND

While the FSA lands are largely scattered across the entire Reservation in a somewhat checkerboarded pattern, there are areas that would contain several hundred acres in a single grouping and approximately 2,699 acres of FSA lands lie just outside the boundaries of the Reservation on its Northern border. Increased hunting and fishing via the tourist industry threatens to destroy the wilderness aspects contained in the off Reservation FSA lands and accordingly, the Lac Courte Oreilles

Conservation Department is recommending title to the FSA lands be given in favor of the Lac Courte Oreilles Tribe in an effort to preserve the few remaining wilderness areas East of the Mississippi River. These off Reservation acres, adjacent to the Reservation, contains two small lakes of approximately 48 acres each and have a depth four to five feet. In 1973, the Lac Courte Oreilles Tribal Government through its Department of Conservation stocked these two lakes with 10,000 bass fingerlings.

Except for the Eddy Creek area, in the Lac Courte Oreilles Zone 3 and Signor area, Lac Courte Oreilles Zone 2, approximately 50% of FSA lands are accessible. Because of inaccessibility to the Eddy Creek area, Signor area and FSA lands lying adjacent to the Reservation are regarded as prime hunting and fishing areas. During the winter, the white tailed deer congregate in these areas to take advantage of the shelter and browse available. Some physical features relative to FSA lands are as follows:

1. Lakes.

- A. Lost Lake - Completely surrounded by FSA lands lying adjacent to the Reservation boundaries in the North-western portion of Lac Courte Oreilles Conservation Zone 4. This lake is approximately 48 acres in size and has a 13 foot maximum depth. Several species of pan fish are available and was stocked with 10,000 bass in 1973.
- B. An unnamed Lake - Completely surrounded by FSA lands adjacent to the Lac Courte Oreilles Reservation boundaries in the southwestern section of the Lac Courte Oreilles Conservation Zone 4. This lake is

approximately 48 acres in size and has a depth of four to five feet. This lake has a definite potential for establishing a wild rice resource for the Tribe.

2. Islands - None

3. Wetlands - There are approximately 1,200 acres of FSA lands ranging from a swampy to a marshy condition. In general, these acres have small streams running through them and have been regarded as highly productive trout streams. The potential for the redevelopment of trout streams and habitat for duck and other water dependent species is of prime importance to Lac Courte Oreilles development. Approximately 25-30 acres of wetlands are swampy and contain some swamp hard woods with the bulk of vegetative cover being spruce and jack pine.

4. Uplands - The remaining 12,000 acres of FSA lands scattered across the Reservation are regarded as uplands. The vegetative cover include a mixture of pine, aspen, hard maple, piss elm, hickory, oak and birch. Short term product availability from these forested FSA land acres is approximately 600,000 board feet of marketable timber in addition to approximately 12,500 cords of pulp wood. These FSA lands contain approximately 11,251,430 board feet of red and white pine of which the allowable cut per year is 77,030 board feet. Approximately 200 acres of hard maple is available for the maple sugar industry. These acres of predominantly hard maple trees are in the excess of 12 inch base diameter. Finally and

most importantly, these FSA Holdings include only 200 approximately 200 home sites that are desperately needed for Tribal home construction.

5. Streams - There are 10 streams crossing or adjacent to FSA lands. These streams are mostly cold water trout streams which flow year round, average depth of two feet and average four to eight feet wide.
6. Man Made Features - The FSA lands contain 25 red pine plantations with a total acreage of 752 acres. These pine plantations were constructed in the 1930's and the trees are approximately 20 feet high with an average diameter of six inches at the base. Current plantation management demands a thinning process, however, since the plantations are on FSA land, the Tribe is reluctant to expend its resources on the needed care and management since no beneficial returns are available to the Tribe at present.

CONCLUSIONS

The original agreements between the U.S. Government and the Lac Courte Oreilles Tribe provided for on-going assurances of support and resources. The survival issues faced by the Lac Courte Oreilles Tribe in the mid 1800's was hinged upon the U.S. 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 ~~empty~~ agreements has 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, these lands lost to non Indians are the most desirable lake front properties.

The loss of ~~an~~ additional 5,700 acres occurred in approximately 1920 when the Chippewa Reservoir flooded valuable Tribal lands. Northern States Power Company, a non Indian Corporation, has caused not only the loss of usable lands but also resources valued in the excess of \$125,000.00 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 incumbered 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 title condition of each and every parcel of allotted land. The title 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, have a high water table condition and presents a major problem when attempting to meet the

standards of the agencies effected by any housing development project. As a consequence, the search for home sites during the past two years, during which time 70 units of HUD housing was constructed, demanded an expenditure in the excess of \$14,000.00 to buy 42 acres of home sites within the Reservation boundaries. This purchase of home sites 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, three acres inside the boundaries of our Reservation, in the community of Reserve, was purchased from the Sawyer County Government. The back taxes on those three acres amounted to \$306.06. The Tribe was forced to pay \$2,000.00 for these three 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 \$100,000.00 in payroll annually. It is estimated that \$36,000.00 in stumpage fees could be realized and made available for other economic development efforts. Because of the desperate need for flexible start up monies 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 start up 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 shop sporting goods.
4. Various cottage industries.
 - a. Maple sugar.

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. This, then, is the challenge.

Rick Baker
Lac Courte Oreilles Tribal Chairman

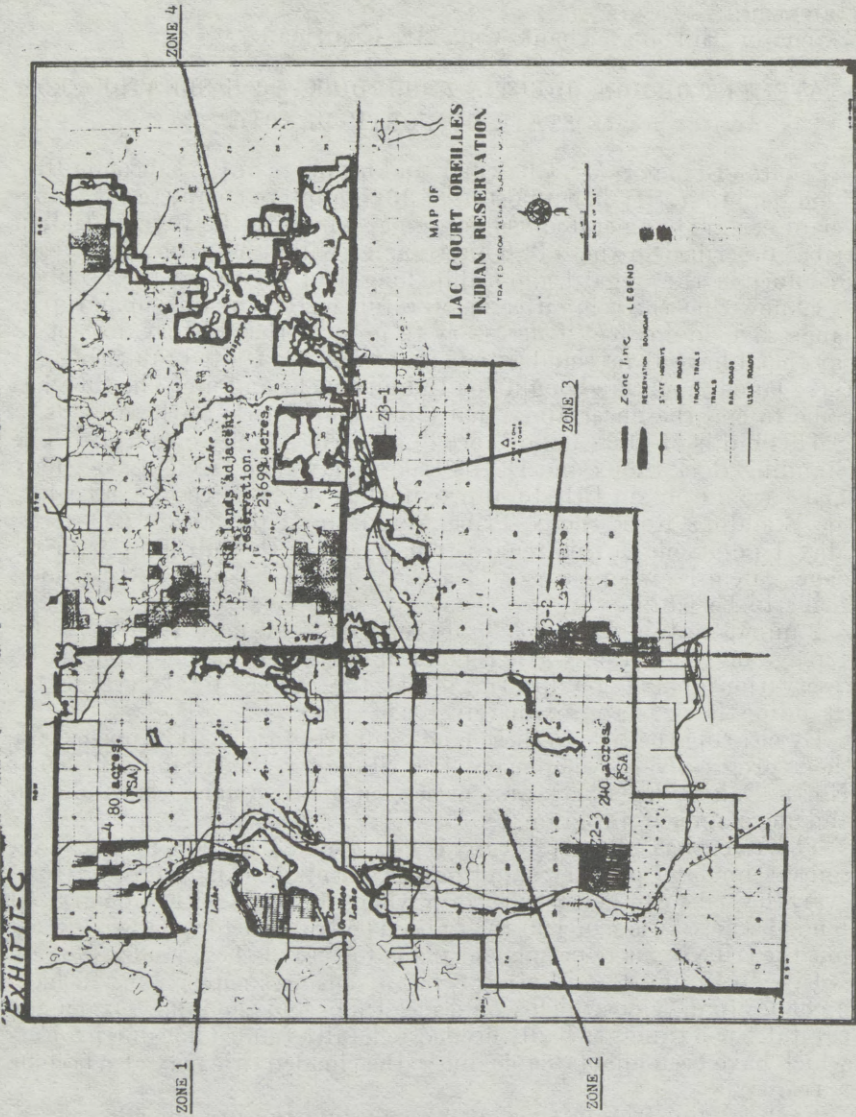
CLARIFICATIONS AND EXPLANATIONS

1. Home site purchase - Page 20

\$14,000.00 was provided by Housing and Urban Development project monies.

2. Land classification - Page 7, 19

- A. Tribal land - land held by the tribe as a community.
- B. Allotted lands - individual trust lands.
- C. FSH lands - U.S. Title lands in trust for tribal use.
- D. Non Indian land or alienated lands.- lands originally held in trust but sold to non Indians with titles held in state fee status.



Senator ABOUREZK. I would like to call Senator Burdick for a statement.

Senator BURDICK. Thank you, Mr. Chairman.

**STATEMENT OF HON. QUENTIN N. BURDICK, A U.S. SENATOR FROM
THE STATE OF NORTH DAKOTA**

Senator BURDICK. Mr. Chairman and members of the subcommittee, I am here to testify in support of S. 1327, a bill to complete the transfer of certain enumerated "submarginal lands" to the various Indian tribes described in the bill. This transfer will culminate many years of effort in this regard and fulfill long-held desires of these tribes.

I know that the committee has the full history of the submarginal lands so I do not feel it necessary to go over that history, except to say that I have always understood that when the United States bought these lands they were bought for Indian benefit and use. The time has come to end the uncertainty that clings to the title to these lands.

This bill is of great importance to two tribes in my own State: The Standing Rock Sioux and Devils Lake Sioux. The Devils Lake Sioux Tribe would obtain title to approximately 1,424 acres of land while the Standing Rock Sioux Tribe would stand to gain 10,256 acres. May I point out in this regard that I believe the bill is in error on page 2, item 17, where it lists the acreage for the Standing Rock Sioux Tribe to be 6,879.

I am not certain what this figure represents—it may be the separate acreage on either the North Dakota or South Dakota portion of the reservation—but I am informed that the correct total acreage for Standing Rock is approximately 10,256 acres.

By clearing the title to these lands, opportunities will be opened for their progressive development. The Standing Rock Sioux Tribe of North Dakota has for years carried on a broad land consolidation and development program.

The tribe has already invested well over \$3 million in tribal resources for land purchases and improvements in this program. However, the tribe can never be certain where it stands with submarginal lands because title is not in the tribe. The transfer of title would permit the tribe to make permanent plans for use of these lands.

Livestock, timber, and other types of business enterprise will have a chance to develop which would mean jobs and the inflow of outside capital. Such things as badly needed federally funded housing projects which have been unobtainable due to the clouded title may also become a reality.

Each administration since 1959, including the present administration, has recommended or suggested bills to transfer trust title of the submarginal lands within a reservation to the tribes. In addition, Congress in the past has enacted five separate statutes conveying submarginal lands in trust. The legislative intent seems clear that trust title would ultimately be conveyed to the tribes as part of their permanent land base. I would strongly urge the subcommittee to act favorably on the bill before you.

Thank you for the opportunity to appear before you this morning.

Senator ABOUREZK. Senator Burdick, I would like to ask you a couple of policy questions with regard to this legislation. A minor dis-

pute has arisen over two items. The income that has accrued from these lands over a period of years before transfer to the Indian people, and second, transfer of the mineral title. As you know, the Government has had a policy of maintaining mineral rights to any property they have transferred in fee patent.

The proposal is to transfer both mineral and accrued income.

I would like to know what your feeling is.

Senator BURDICK. I would certainly be in favor of that.

Senator ABOUREZK. Thank you very much, Senator Burdick.

Now, the second witness for this morning after Senator Burdick, will be the administration panel of witnesses, Hon. Morris Thompson, Commissioner of Indian Affairs, and Mr. Dwight L. Patton, Deputy Assistant Director for Minerals, Bureau of Land Management, and their assistants.

For the reporter's benefit, Mr. Commissioner, please introduce the people you have with you, and Mr. Patton, if you would introduce the people with you.

Commissioner THOMPSON. On my left is Frank Hutchinson, a research specialist with the Office of Trust Responsibilities, Mr. Hutchinson has been working with us on this submarginal lands issue for a number of years and is a known expert in the field. He is an Indian himself and has recently retired and has come back to help us hopefully push through the transfer of the last of these submarginal bills.

On his right is John Gordon, research specialist of the Office of Trust Responsibilities.

On my immediate left, of course, is Ralph Reeser, staff director of the Office of Legislative Affairs.

On my right, Deputy Assistant Director for Minerals of the Bureau of Land Management, Mr. Dwight L. Patton.

Mr. PATTON. On my right is Mr. Jonathon Strong of the Solicitor's Office.

Senator ABOUREZK. I would like to welcome all of you to the committee. If you are ready, Mr. Commissioner, we are ready to hear your testimony.

STATEMENT OF HON. MORRIS THOMPSON, COMMISSIONER OF INDIAN AFFAIRS, ACCOMPANIED BY DWIGHT L. PATTON, DEPUTY ASSISTANT DIRECTOR FOR MINERALS MANAGEMENT, BUREAU OF LAND MANAGEMENT; FRANK HUTCHINSON, OFFICE OF TRUST RESPONSIBILITIES; JOHN GORDON, OFFICE OF TRUST RESPONSIBILITIES; RALPH REESER, OFFICE OF LEGISLATIVE AFFAIRS; AND JONATHON STRONG, SOLICITOR'S OFFICE

Commissioner THOMPSON. Mr. Chairman and members of the subcommittee, 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 longtime desires of these tribes.

A proposed bill, similar to S. 1327, had been under consideration within the executive branch for some time and was transmitted to the Senate on April 28, 1975. It is that proposed bill that our departmental report recommends be enacted in lieu of S. 1327.

Our proposal would transfer in trust, all of approximately 390,000 acres of federally owned land, with certain specified exceptions or 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 during the 1930's. This land was transferred to the Interior Department for permanent administration for the exclusive benefit of Indians in the 1930's. Our proposal will complete the transfer to Indian tribes of all such land purchased by the United States for the relief of Indians.

The trust status will allow 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.

There are two main differences between our proposed bill and S. 1327. 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 S. 1327. The administration does not support such a transfer. The second major difference is that our proposal provides for an offset consideration by the Indian Claims Commission in connection with any judgment award made to any of the tribes affected by this bill, a provision that is not included in S. 1327.

In conclusion, 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 statement.

Senator ABOUREZK. Thank you. Does the Bureau of Land Management have any statement?

Mr. PATTON. No; we do not.

Senator ABOUREZK. What is the relationship of the act of August 8, 1968, which concerns the bombing-range lands in South Dakota, to the submarginal lands on the Pine Ridge Reservation?

Commissioner THOMPSON. I will have Mr. Gordon or Mr. Hutchinson respond.

Mr. HUTCHINSON. In the case of the submarginal lands on the Pine Ridge Reservation, the 1968 act provides for disposition of those lands to the former owners. When the other lands were taken for bombing range purposes in 1942, the individuals were paid cash for their lands.

The 1968 act authorized all former owners to repurchase their lands if they were declared excess by the Department of the Air Force and if they were not located within the Monument area created by that act. It also provided if their lands were not available, they could select the submarginal lands in lieu, and repurchase them.

After that repurchase of land is concluded, section 5 of the act authorized the tribe to exchange certain interest in lands with the United States and thereby obtain title to the remaining submarginal lands. These lands have been committed by the 1968 act to be available for repurchase by former Indian or non-Indian owners of the lands

within that gunnery range, and also by acquisition by the tribe through exchange.

Senator ABOUREZK. Would that require an amendment to this legislation we are considering today?

Mr. HUTCHINSON. It might require an amendment, depending upon the timing, when the final action is taken on this proposed legislation we are hearing this morning. There are, I understand, about 17 individuals who have the right to repurchase but who have not made their selection of lands.

If they complete their selections of lands and enter into repurchase contracts, then this legislation would have no effect upon their repurchase program, and this legislation would be subject to those rights established under the individual contracts.

Senator ABOUREZK. Is there any record of the Government providing protection to the submarginal land interests located in the Corps of Engineers' project on the Bad River Reservation and those tribes affected by the Missouri River Basin projects? Specifically, what benefits, if any, have the tribes received for the flooding or the taking or condemnation of submarginal lands?

Commissioner THOMPSON. Mr. Gordon from the Rights Protection Office has a more definite answer.

Mr. GORDON. Mr. Chairman, I believe the record does not reflect and specific action on the part of the Department for protection of these specific lands. It appears that instead of being an actual benefit, it could be a detriment because the use of the lands was taken from the tribes themselves and no actual income was derived.

Senator ABOUREZK. You say it was not taken from the tribes themselves?

Mr. GORDON. It was. The submarginal lands that would normally be used by the tribes was flooded by the project. It may be that the projects help prevent to some degree erosion in the area, and it might be possible in some future time the other Indian land in the area could be benefited by the water or some type of recreation.

Senator ABOUREZK. There have been no direct financial benefits accruing to tribes; is that right?

Mr. GORDON. That is right.

Senator ABOUREZK. Section 3 of your proposed bill protects individual rights in the submarginal lands proposed to be transferred in trust to the affected tribes. Please identify those rights.

Mr. GORDON. Mr. Chairman, these would be in general categories of oil and gas leases, fences, road rights-of-way, powerlines, timber contracts, and these type of individual rights that have been let on the land.

Senator ABOUREZK. Section 4 of your bill contains the Indian Claims Commission "offset" provision. Are you aware of the Commission's letter of April 23 relating to this issue?

Commissioner THOMPSON. Senator, we are. And what we are proposing in our language is intended to override previous interpretations of the offset provision of the ICC Act. We propose that the ICC, because of the magnitude of the proposed transfer, review its previous practice in connection with some previous submarginal land transfers.

The ICC is not required to make an offset under our section 4, but is authorized to do so in its discretion, so the matter is simply referred to the ICC for disposal as they see fit.

Senator ABOUREZK. In light of their very strong legal argument against the inclusion of it and the fact that you say it is not mandatory on the ICC, why do you want to muddy up the waters by including it?

Commissioner THOMPSON. We propose it simply because of the magnitude of the transfer, the large number of acres—almost 400,000 acres—the ICC should review their practice. It is not mandatory. It is discretionary with the ICC. We are only recommending to the committee that they consider asking the Indian Claims Commission to review this.

Senator ABOUREZK. I would like to ask you, if you would, to take a look at the second paragraph of page 2 of that letter, if you have it with you. Let me just read it.

The usual offset clause, if included in the bill, would direct the Commission to consider the question of offsetting the donated lands against the claims of the affected tribes. This directive would preclude the Department of Justice from exercising any discretion in excluding these trust lands from any claim for gratuitous offsets. Presumably, this circumstance would also seriously restrict the parties in any effort to expedite the entry of a final award by compromising the issue of gratuitous offsets.

Now the Commission maintains this would seriously slow down litigation on the 17 claims as well.

Would you comment on why you want to do that?

Commissioner THOMPSON. Mr. Chairman, in fairness to the committee, I have not had an opportunity to personally go over the letter. The departmental position is not intended in any way to slow down the judgment award process. Certainly the committee knows that getting a judgment award through the ICC and through our Department, and approved by Congress is already a lengthy process.

I was not personally aware that the ICC thought this would slow this process down, and we would hope that this would not have such effect. We were not aware that the ICC felt this would have such a negative impact.

Senator ABOUREZK. I am advised by counsel that 16 of the 17 tribes considered in this legislation have pending claims. The Cherokee are the only ones of the 17 who do not have a pending claim. So the effect of that provision in that bill would be to slow down 16 of the 17 tribes in the settlement of their claims, which I think is inconsistent with your own position.

I would suggest the administration reconsider that proposal in their legislation.

Now, if you would provide for the record, a breakdown of income by reservation, surface or subsurface, and the source of such income on these lands.

Commissioner THOMPSON. We would be pleased to, Senator.

[The breakdown of income by reservation follows:]

Reservation	Income from submarginal land			Present total of earnings deposited in U.S. Treasury
	Surface rents	Minerals	Timber	
Bad River.....	\$32. 60	0	\$114, 364. 00	\$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. 00	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	2, 876, 461. 65
White Earth.....	5, 154. 00	5, 085. 00	252, 631. 00	262, 870. 00
Lac Courte Oreilles.....	391. 00	0	87, 879. 00	88, 270. 00
Total.....	493, 267. 12	2, 948, 998. 25	487, 152. 00	3, 929, 417. 37

Senator ABOUREZK. Are you aware of the act of August 13, 1949 (62 Stat. 604), which conveyed in trust submarginal land and public domain land to several Pueblos and the Canoncito Navajos of New Mexico?

Commissioner THOMPSON. Yes.

Senator ABOUREZK. That act transferred to the Indians approximately \$8,100 derived from the submarginal lands. Do you accept this act as a precedent for transferring accrued income to the 17 tribes affected by S. 1327?

Commissioner THOMPSON. It is a precedent, Senator. However, we feel the amount of money transferred there was significantly smaller as compared to the amount of money that is proposed under S. 1327. So it is a precedent. But we feel the magnitude of the transfer of the money in S. 1327 warrants another review of the transferring of the funds.

Senator ABOUREZK. If it is a precedent, it would apply no matter what the amount of money would be.

Commissioner THOMPSON. Maybe I did not fully explain myself, Senator. There is no apparent legal binding claim by the tribes to these funds. The lands were purchased in many instances from non-Indians with public funds. We are concerned about the magnitude of the amount of money. The language of section 7 of the August 7, 1947, act setting up the trust funds, reserved exclusively to the Congress the manner in which the funds would be disposed and I would personally support Congress wishes in this regard if these funds were transferred to the tribe and the administration supported the transfer.

So we are saying here because of the magnitude, we feel the moneys should revert to the Treasury. But in fairness to the committee, the administration has not had a "consistent position." I would imagine the reason for that is the dollar amounts involved at the time.

Senator ABOUREZK. With respect to section 6 of the Mineral Leasing Act for acquired lands, does that give any prerogative to Congress with regard to the disposition of such income?

Commissioner THOMPSON. I believe, it is my interpretation, and we have someone from the Solicitor's office, but it is my interpretation that the language setting up that trust fund gives exclusive authority to Congress to dispose of the money.

But if I may, I would like to defer to the Solicitor for the Bureau of Land Management.

Mr. STRONG. I am looking for the section right now, Senator. The proviso in section 6 states, "The money shall be deposited in a special fund in the Treasury until final disposition thereof by the Congress."

As we read that it means Congress can do with it what it will.

Senator ABOUREZK. You are recommending a change of that law in your proposed bill.

Mr. STRONG. It is not a change. It is just that Congress may do with the money as it will, and we are not recommending that it be transferred to the Indians.

Senator ABOUREZK. Then, I take it, if Congress were to enact legislation which transferred the accrued income of 17 tribes affected by this bill you would not recommend a veto of the bill; am I correct in assuming that?

Mr. STRONG. I cannot speak for the administration.

Commissioner THOMPSON. There is someone here who will try. Senator, personally I would not recommend the veto, personally, because of—

Senator ABOUREZK. Thank you. No more questions. [Laughter.]

Commissioner THOMPSON. Because of the current situation without a Secretary, I cannot honestly speak for the Administration. You asked a question, I will attempt to give you as honest an answer as I can, Mr. Chairman. I would not personally recommend a veto. I think the language of the 1947 Act is clear.

We are here recommending a posture to the committee and this is our recommendation. The Solicitor pointed out, the authority rests with the Congress. If Congress sees fit, as they have in other instances, to transfer the money to the Indian tribes, then we would support that.

Senator ABOUREZK. Thank you very much.

In response to a question submitted to the Department in advance of this hearing, the Department indicated at Fort Belknap, Fort Hall, and Lac Courte Oreilles, the submarginal lands are located partly within the exterior boundaries of these three reservations.

Can you give the committee precise acreage figures in each instance?

Commissioner THOMPSON. I believe John Gordon has those figures.

Mr. GORDON. Fort Belknap has 24,938.08 acres off the reservation, 591.02 on. Fort Hall has 3,868.74 acres off reservation, and 4,842.26 within the boundaries of the reservation. Lac Courte Oreilles has 2,552.02 acres off the reservation, and 10,632.63 acres within the boundary of the reservation.

Senator ABOUREZK. Will you provide the record with a mineral status report for the submarginal lands enumerated in S. 1327? We would like to have, if you would share the data and information as reflected by the U.S. Geological Surveys the most recent surveys for those lands.

Commissioner THOMPSON. Mr. Chairman, we would be pleased to do so. We have a breakdown here which can be submitted for the record.

[The information referred to follows:]

Mineral value of submarginal lands

<i>Reservation</i>	<i>Mineral value</i>
Bad River-----	No mineral income ever received from the land nor is there a potential for mineral development.
Blackfeet-----	The lands have been valued in the past at \$4 per acre. Mostly all lands are considered to have potential value for oil and gas. However, none of the acreage is currently under a producing oil lease. There is a potential for coal, magnetite sand, and gravel but, the value would be nominal.
Lower Brule-----	The lands are valuable prospectively for oil and gas. Uranium has been reported in some black shales yet the value is considered nominal. No mineral income has ever been received.
Crow Creek-----	The lands are valuable prospectively for oil and gas. Uranium has been reported in some black shales yet the value is considered nominal. No mineral income has ever been received.
L'Anse-----	No minerals of a commercial nature are known to occur on or near the land project area.
Navajo-----	No minerals of a commercial nature are known to exist here. No income from minerals has ever been received.
Rosebud-----	The lands are prospectively valuable for oil and gas, though the value is considered nominal. No income has ever been received from this land.
Cherokee-----	These lands have a low potential value for oil and gas.
Cheyenne River-----	The lands are potentially valuable for oil and gas. Test holes have been drilled. No other prospective mineral development.
Fort Totten-----	There is a low prospective value for oil and gas. No other prospective mineral development.
Fort Belknap-----	These lands are considered to have some potential value for oil and gas, coal and bentonite. The value is considered nominal.
Pine Ridge-----	The subject lands are valuable prospectively for uranium, bentonite and oil and gas. Some mining of Niobrara clays for ceramics.
Standing Rock-----	The subject lands are potentially valuable for oil and gas, and, in part, for lignite and uranium-bearing lignite.
Fort Hall-----	The lands have a low potential value for oil and gas. There also exists on some lands potential development of phosphate.
Fort Peck-----	These lands are prospectively valuable for oil and gas. In the past there has been income derived from oil and gas leases.
White Earth-----	No minerals of a commercial nature are known to exist here. No income from mineral activity has ever been recorded.
Lac Courte Oreilles-----	There are no known minerals in the project area except for possible sand and gravel development.

The mineral value data was obtained from USGS 1971, field reports in all but three project area reservations: Fort Peck, White Earth, and Navajo. The information for these three reservations was made available through our field reports.

Senator ABOUREZK. Would the administration support an amendment to S. 1327 transferring the subsurface interests of the submarginal lands to the Stockbridge-Munsee Tribe?

Commissioner THOMPSON. I personally think that it might be consistent with the legislation and could avoid the need for future legislation.

Senator ABOUREZK. I have a couple of questions for the Bureau of Land Management.

I wonder if you would explain the BLM's function in the leasing of submarginal lands for mineral exploration and the statutory authority for that?

Mr. PATTON. We administer the leasing on the submarginal lands under the Acquired Lands Mineral Leasing Act of 1947, and we administer these things similarly to what we do on other public lands, with the difference that the receipts for lands leased under the act of 1947 go into the special account, whereas on the public lands the receipts are distributed, 37½ percent to the State, 52½ percent to the reclamation fund, and 10 percent to the Treasury.

Senator ABOUREZK. In the event Congress were to enact legislation authorizing the transfer of accrued submarginal land income to the 17 tribes affected by S. 1327, are there any administrative or legal implications that should be brought to the committee's attention in that respect?

Mr. PATTON. In Fort Belknap there are 9,085 acres which are classed as public domain minerals acreage and it means on those 9,085 acres the oil and gas is reserved to the United States. Also, 4,500 acres on that project were in coal reserved to the United States, that are overlapping the acres of oil and gas.

Now, these minerals have never passed out of Federal ownership. They are public domain minerals. It is the Solicitor's opinion that for the leases on these lands, receipts would be distributed under the 1920 Mineral Leasing Act which has the distribution formula which I spoke of earlier. There are public domain minerals also on the Gallup II wells project, and also on the Zuni project. There have been no leasing there. And also no receipts.

Senator ABOUREZK. The committee counsel has a question.

Mr. GERARD. Would it be possible to have a copy that Solicitor's opinion for the record.

Mr. PATTON. Yes, it would.

Mr. GERARD. Second, if S. 1327 is enacted into law and the Fort Belknap Tribe receives the mineral estate, what would be the effect of the previous distribution formula in the future? Would the tribe receive all of the income from mineral exploration? Or would that formula still apply in the future, following enactment?

Mr. STRONG. We have some question whether the public domain minerals would in fact pass to the tribe under S. 1327.

Mr. GERARD. Could the Department provide the committee with a clarification of that question?

Mr. PATTON. Yes.

[Subsequent to the hearing the following information was received:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
April 23, 1975.

Memorandum

To: Director, Bureau of Land Management; Through: Assistant Secretary—
Land and Water Resources

From: Associate Solicitor—Energy and Resources

Subject: Status of Fort Belknap Indian Community Lands

In your memorandum on this subject of April 15, 1975, you asked (1) whether minerals in the Fort Belknap lands which had never been out of federal ownership were subject to leasing under the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. §§ 181-287), or under the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C. §§ 351-359) and (2) whether receipts from such public domain minerals in the Fort Belknap lands should be distributed under the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. The second question is really embraced in the first, because the distribution of receipts would be the most significant difference between leasing under the one statute and leasing under the other. Of all receipts under the Mineral Leasing Act 37½% are distributed to the States within the boundaries of which the leased lands are situated and 52½% to the reclamation fund; revenues from acquired lands leases are distributed in a completely different manner. A proviso to section 6 of the Acquired Lands Act (30 U.S.C. § 355) specifically provides for the disposition of receipts from leases or permits issued under that statute for minerals and lands set apart for Indian use. Consequently, a determination that these minerals are subject to leasing under the 1947 Act rather than the 1920 Act would limit revenues payable to the State of Montana.

There is no question that mineral deposits, which were once in non-federal ownership and have been acquired by the federal government for the Fort Belknap lands, are in an acquired land status and subject to leasing only under the Mineral Leasing Act for Acquired Lands. However, where the United States granted title to public lands but reserved the minerals in those lands at the time of granting, the reserved deposits remained in a public land status and were subject to disposition only under the Mineral Leasing Act of 1920. Some positive action by Congress or by the executive branch pursuant to statutory authorization must be taken before those deposits can lose their public land status. To the best of my knowledge such an action has not been taken by Congress and there is no statutory authority by which they could be converted from a public domain status to an acquired lands status.

It has been suggested that, where the surface is in an acquired land status, reserved mineral deposits, even though they have never been disposed of and would thus appear to be in a public domain status, have nevertheless become subject to leasing under the Acquired Lands Act. I find nothing in the legislative history of the 1947 Acquired Lands Act which indicates an intention by the Congress to cause such reserved minerals to be made subject to the provisions of that statute. Prior to 1947 there was no question that reserved minerals in a public domain status were subject to leasing under the 1920 Act. Section 34 of the Mineral Leasing Act, as amended (30 U.S.C. § 182), specifically provides for the leasing under that statute of such reserved minerals. Accordingly, it is clear that those minerals now in the Fort Belknap lands which were originally in a public domain status and were reserved when the lands in which they were situated were granted were in a public land status prior to the enactment of the 1947 Act and subject to leasing under the 1920 Act.

If Congress had intended to make such reserved minerals subject to leasing under the 1947 Act, one would expect to find in the 1947 Acquired Lands Act a specific provision stating that it was applicable to certain minerals which were in a public domain status. There is no provision which specifically provides for the change of the status of any deposits from public domain to acquired lands. The only possible indication is the statement in section 3 (30 U.S.C. § 352) that deposits of certain minerals which are "owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States" shall be leased under the 1947 Act. It could be argued that the Fort Belknap

mineral deposits were owned by the United States in 1947 and are now within acquired lands. However, the word "owned" was probably intended to mean deposits which had been acquired prior to the statute's enactment. The House Committee report indicates that a purpose of the legislation was to stimulate the exploration of new petroleum reserves by authorizing the leasing of mineral deposits where exploration had been retarded by lack of authority to lease. (H.R. Rep. No. 550, 80th Cong., 1st Sess. (1947) There had been no lack of authority to lease these reserved deposits for they were already subject to leasing under section 34 of the 1920 Act. There is nothing as far as I can determine in the legislative history of the Mineral Leasing Act for Acquired Lands which shows an intention to take minerals out of the 1920 Act and put them under the new statute. Moreover, I am unaware of any provision in any other statute providing for the transfer of minerals from the 1920 Act to the 1947 Act.

Accordingly, I am of the opinion that any mineral deposits in the Fort Belknap lands which have never been out of Federal ownership remain subject to the 1920 Act and are to be leased only pursuant to its provisions.

HUGH C. GARNER.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 1, 1975.

Memorandum

To: Director, Bureau of Land Management. Through: Assistant Secretary—Land and Water Resources

From: Associate Solicitor—Energy and Resources

Subject: Status of Fort Belknap Indian Community Lands

On April 23, 1975, I sent you a memorandum on this subject in which I explained the status of public land mineral deposits underlying surface in an acquired land status. This situation has arisen in some of the Fort Belknap lands where lands were originally public domain. Those public domain lands were transferred to private ownership subject to a mineral reservation to the United States. The reserved minerals remained subject to disposition under the Mineral Leasing Act, as amended and supplemented (30 U.S.C. §§ 181-287). Subsequently the surface of the lands was acquired by the United States.

The question asked was whether those public domain mineral deposits had become subject to the Mineral Leasing Act for Acquired Lands (30 U.S.C. §§ 351-359) upon the acquisition of the surface by the Federal Government. I informed you that those public domain mineral deposits remained subject to the 1920 Act and were not subject to leasing under the Acquired Lands Act. I remain convinced that that view was correct, and I now recognize that there is an even stronger argument to support that view than any which I had expressed in my memorandum of April 23.

Section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. § 352) provides for the leasing of deposits of coal, oil, and gas, oil shale and certain other minerals "which are owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States". Section 2 of that Act (30 U.S.C. § 351) states "'acquired lands' or 'lands acquired by the United States' include all lands heretofore or hereafter acquired by the United States to which the 'Mineral Leasing Laws' have not been extended . . ." Section 2 also states "'Mineral Leasing Laws' shall mean . . . the Act of February 25, 1920, . . ." Where the surface was in an acquired lands status, but the minerals were subject to leasing under the 1920 Act, as in the case of the deposits underlying Fort Belknap with which we are concerned, the mineral leasing laws had been extended to those lands. Prior to the passage of the Acquired Lands Act on August 7, 1947, the Secretary had full authority to lease these mineral deposits under the Mineral Leasing Act of 1920. Accordingly, these lands do not come within the definition of either "acquired lands" or "lands acquired by the United States" as used in the 1947 Acquired Lands Act. Consequently, the Mineral Leasing Act for Acquired Lands cannot be applicable to these lands containing mineral deposits in a public domain status.

HUGH C. GARNER.

Senator ABOUREZK. We want to thank you all very much for your appearance here today and your testimony.

The second panel of witnesses, I would like to ask you to come forward to the witness table.

Mr. Marvin Sargent, land use planner of the Minnesota Chippewa Tribe; Mr. Roland Kennerly, secretary of the Blackfeet Tribal Business Council; Mr. Wilson Skeet, vice chairman, Navajo Tribal Council, accompanied by Mr. Jim Shorty, Office of Navajo Land Administration, and Mr. Edward Begay, Navajo tribal councilman, Mr. Norman Hollow, chairman, Assiniboine-Sioux Tribes of the Fort Peck Reservation, accompanied by Joe Day, tribal councilman, Fort Peck Reservation; and Marvin Sonosky.

I would like to welcome all of you to the committee. If you would, from left to right, give your names to the reporter so she will know who is speaking.

Mr. BEGAY. I am Edward Begay, member of the Navajo Tribal Council.

Mr. SHORTY. Jim Shorty, land administration, Navajo Tribe.

Mr. SKEET. Wilson Skeet, vice chairman, Navajo Tribe, Tribal Council. And there is another gentleman with me in the back of the room, Charley Y. Begay, land board member, district 16 of the Navajo Nation.

Mr. KENNERLY. Roland Kennerly, secretary, Blackfeet Tribal Business Council.

Mr. SARGENT. Marvin Sargent, land use planner, Minnesota Chippewa Tribe.

Mr. HOLLOW. Norman Hollow, chairman of the Fort Peck Assiniboine-Sioux Tribes from Montana.

Mr. DAY. Joe Day, a member of the tribal council at Fort Peck Indian Reservation.

Senator ABOUREZK. I would like to welcome all of you once again.

Senators Mondale and Humphrey have asked that their statements be incorporated in the record.

[The statements of Senators Mondale and Humphrey follow:]

STATEMENT OF HON. WALTER F. MONDALE, A U.S. SENATOR FROM THE
STATE OF MINNESOTA

Mr. Chairman and Members of the Subcommittee on Indian Affairs, I am extremely grateful for this opportunity to present my views on the important bills which you are considering today. I congratulate the Subcommittee for holding this hearing on legislation of vital importance to thousands of citizens throughout this country.

I would like to begin by indicating my full and unequivocal support for S. 1327, the Omnibus Bill introduced by the distinguished Chairman (Mr. Abourezk) to transfer certain submarginal lands to Indian tribes throughout the country. Included within this legislation is the transfer of submarginal lands to the Minnesota Chippewa Tribe.

I was proud to have been one of the original sponsors of this bill. It continues to have my full support, and I wish, this morning, to emphasize the importance of this bill to the Minnesota Chippewa. Action on all of these land transfers is long overdue. It is my sincere hope that the Congress will take prompt action on S. 1327.

The Subcommittee is also considering S. 423 this morning. S. 423 is a bill which I introduced, with Senator Humphrey, to bring about the transfer of the submarginal lands to the Minnesota Chippewa at the White Earth Reservation.

I first introduced this legislation on May 23, 1967. It is identical to S. 1710 of the 91st Congress, S. 1217 of the 92nd Congress, and S. 2913 of the 93rd Congress. The bill passed the Senate during the 92nd Congress.

The bill restores to the Minnesota Chippewa Tribe, White Earth Reservation, certain submarginal lands of the United States and makes such lands part of the White Earth Reservation.

These properties consist of approximately 28,700 acres purchased by the Federal Government during the mid-1930's under Title II of the National Industrial Recovery Act. These lands were acquired in order to retire them from private ownership, to correct maladjustments in land use, and with the expectation that they would be made available for tribal use.

These lands were originally owned by the Minnesota Chippewa Tribe. Unfortunately, they were allotted under the Allotment Act. The Minnesota Chippewa Tribe has been deprived of their much-needed use for too many years.

The Minnesota Chippewa Tribe urgently needs this land, Mr. Chairman. This legislation will mean jobs, income, sustenance, housing, and productive activity for many members of the tribe.

I urge this Subcommittee, in the strongest terms, to act promptly and affirmatively on S. 1327 or S. 423. Either would accomplish the result of transfer of these lands. Either would bring about the result I have been seeking for almost eight years.

I respectfully ask that a copy of S. 423 be printed in the record of this hearing following my remarks. I again wish to thank the Subcommittee for this opportunity to present my views on this important legislation.

STATEMENT OF HON. HUBERT H. HUMPHREY, A U.S. SENATOR FROM THE STATE OF MINNESOTA

As a cosponsor of S. 1327, I cannot stress too strongly the need for the Congress to complete the transfer of submarginal lands originally intended for our Indian tribes to those tribes. Legislation to complete the transfer is long overdue—40 years overdue.

I do not believe that I need to reiterate the history of ownership of these lands for this committee. But, I would remind the committee that when the federal government purchased these particular submarginal lands it did so with the full intent of holding the title to them in trust for the Indian tribes, so that the tribes would reap the full benefits of ownership.

Unfortunately, the lack of action to complete the transfer of these lands to the Indian tribes has prevented the tribes from receiving these benefits. The cloud that hangs over the deed to the lands has discouraged outside investment in the lands and cast a shadow of doubt over the utility of any land use planning by the tribes. What company, what bank, what individual would invest his time and money in an enterprise on land whose ownership was unclear and which was subject to a revocable use permit?

In my own state of Minnesota, the lack of a clear title to the submarginal lands which lie within the bounds of the White Earth Reservation has inhibited the economic and social development plans of the Chippewa Indian Tribe, prevented them from establishing a fully viable tribal ranch which could provide employment opportunities for a goodly number of their group, prevented the development of new and badly needed housing and undercut timberland conservation efforts.

Passage of this bill would be of incalculable benefit to the 2,800 Indians on the White Earth Reservation, enabling them to move ahead with viable economic and social planning. Furthermore, the provision of S. 1327 which would convey to the tribe the accrued income from the lands would partially help this tribe deal with the serious economic problems which currently face it.

Finally, S. 1327 would enhance our national timberland conservation efforts by giving one group the responsibility and hopefully, through such further executive action or legislation as may be required, the means to adequately care for our valuable timberland resources.

I urge this committee to report S. 1327 favorably. It is time for us to correct the inequities which our lack of action during the last forty years has created.

Senator ABOUREZK. Who is the head of this panel, or have you elected anybody?

Mr. HOLLOW. Senator, I was under the impression we were to give individual testimony. I have a prepared statement I would like to hand in and briefly comment on it.

STATEMENT OF NORMAN HOLLOW, CHAIRMAN ASSINIBOINE-SIOUX
TRIBES OF FORT PECK RESERVATION, MONT.

Mr. HOLLOW. My name is Norman Hollow. I am chairman of the Assiniboiné-Sioux Tribes of Fort Peck Reservation, Mont. I want to thank the chairman and members of the committee for allowing me to testify on S. 1327.

In my prepared statement, I briefly summarize the transactions that transpired shortly after the establishment of the reservation. After passage of the act, allotments were made to members of the tribes and the remaining land was declared surplus and allowed Indians for homestead entry.

Some of the lands are under the submarginal bill before your committee as part of this land which was originally tribal land at one time.

After the allotment system was established on the reservation, the matter of the continual loss of land base was of major concern to some members of the tribe and at times have attempted to take steps to correct the matter.

The tribe with their meager funds have purchased land in the amount of 71,460 acres. We have also borrowed from the Farmers Home Administration with an act that was made possible by Congress to loan funds to various Indian tribes. With the source of funds from these two areas, we have attempted to buy complicated heirship tracts of land for sale. We have also established a credit program on our reservation using \$650,000 initially of tribal funds. We have also received \$500,000 in Federal funds from the Bureau of Indian Affairs as a result of passage of the Indian Finance Act.

With these two sources of funds, we attempt to make funds available to our tribal members to enter into any business establishment they desire, including ranching and farming, for youngsters who desire to go on to colleges and universities to further their education. We have also attempted to provide employment for our tribal members.

Recently we have completed negotiations with the Defense Department for camouflage netting projects where the tribes have invested \$50,000. The plant is now in operation employing 95 people.

We also have a small electronics plant in operation which employs 18 people in which the tribe has invested \$90,000 and which is in operation on our reservation as well.

We also have a housing project which employs around 60 people. We recently completed negotiations with a firm out of Portland, Oreg. This plant will establish an intermediate casting finishing plant that will initially employ about 33 people and will furnish processing services on a contract basis.

Senator, I merely mention these products to indicate the tribes are attempting to raise the economic level of the reservation in spite of the meager resources that are available to us.

With the passage of this legislation before us here, it will be possible for the tribes to continue their land purchase program and to consolidate their holdings.

The revenue derived will help raise the economic standard of living and assure our tribal members with an opportunity to be self supporting and will be of long-range benefit to the entire reservation as a whole.

That, Mr. Chairman, is the extent of the summary of my remarks.

[The prepared statement of Mr. Hollow follows:]

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

My name is Norman Hollow. I am Chairman of the Assinibone-Sioux Tribes of Fort Peck Reservation, Montana. I want to thank the Chairman and Members of the Committee for allowing me to testify on S-1327.

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 principal 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, backhoes 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 Enterprises.

Senator ABOUREZK. Mr. Sonosky, I understand, has a brief bit of testimony he wants to offer at this point.

STATEMENT OF MARVIN J. SONOSKY, GENERAL COUNSEL, ASSINIBOINE AND SIOUX TRIBES, FORT PECK RESERVATION, MONT.

Mr. SONOSKY. Mr. Chairman, my name is Marvin J. Sonosky. I am here as general counsel of the Fort Peck tribes that have just testified and the Standing Rock Sioux Tribe. I would appreciate it if my statement is placed in the record.

Senator ABOUREZK. It will be inserted in the record.

Mr. SONOSKY. The only statement I wanted to make concerns two points. One concerns minerals and the other concerns offsets with respect to minerals; if this bill becomes law, the title to the minerals will be vested to the tribes in trust. Presently those minerals are now being administered under the public land laws by the Bureau of Land Management. To be certain those minerals would be administered under the Indian Mineral Leasing Act as distinguished from the public land laws and Mineral Leasing Act, the bill should contain a provision directing that all future leasing should be under the Indian Mineral Leasing Act of 1938.

The differences under the Indian Mineral Leasing Act, oil and gas goes up for competitive bid and brings bonuses, whereas under the public land laws, there are no competitive bids, and a nominal amount is paid by the applicant for Federal oil and gas lease.

If the chairman so wishes, I will be glad to submit suggested language for the use of the committee.

Senator ABOUREZK. Please do.

Mr. SONOSKY. The other point concerns offset. The congressional policy on offsets under the Indian Claims Commission Act was laid down in 1947. That has been the policy with the Commission all through the years, that lands that were acquired under the assistance acts, the National Industrial Recovery Act, and so forth, including the submarginal lands, are not deductible gratuities and it would be, one, wholly unfair I think at this stage to change the rules of the Indian Claims Commission and start requiring the tribes to whom we are ostensibly giving these lands to carry out a prior obligation to require them to buy the lands. That is what it would amount to.

If a tribe receives an award and has to pay back the United States for the value of the lands that the Congress intends to give them by this act, to carry out the prior obligation, the tribes simply would be buying the lands from the United States.

The third disadvantage would be the Government would require a full redress evaluation hearing of the submarginal lands in order to determine the value for the purpose of deducting this gift from the Government's legal obligation.

Mr. GERARD. Just one question, Mr. Sonosky. Do you agree with the Commission's response to the committee that if they are in fact mandated to consider value of these lands against any awards that might be given to the 16 tribes in the bill, with the exception of the Cherokee, that it would delay the final adjudication of those claims?

Mr. SONOSKY. I agree. We estimate about $2\frac{1}{2}$ to 3 years additional time whenever there is a land valuation involved. I have one now going on its fifth year on the issue of value of lands that the Government wishes to deduct from a judgment awarded 5 years ago.

Senator ABOUREZK. Thank you very much, Mr. Sonosky. Along with your statement, we have a statement just arrived from Senator Domenici which will be inserted in the record at this time.

[The prepared statements of Senator Domenici and Mr. Sonosky follow.]

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF
NEW MEXICO

Mr. Chairman, and members of the Committee thank you very much for providing me with the opportunity to testify in support of S. 1327. This legislation, if enacted, would transfer lands to be held in trust to several Indian tribes including the Navajo Tribe in New Mexico. These lands are commonly known as submarginal lands and were purchased by the United States during the 1930's under the National Industrial Recovery Act, and subsequent relief acts at a cost of \$1,852,773. The purpose was to retire them from private ownership to correct maladjustments in land use and to benefit various disadvantaged groups. They were also bought with the expectation that they would be made available for Indian tribal use.

The lands acquired under this program were almost entirely within the existing Indian Reservations. There was a clear understanding that the Department of the Interior would incorporate these project lands into the Indian Reservations.

The history and extensive documentation clearly outline the understanding between the Federal agencies involved in the acquisition and administration of submarginal land on or near Indian reservations. The land was being selected for acquisition in connection with Demonstration Indian Land Projects. It was needed by the Indians, and it would be utilized by the Indians in connection with the use of Indian-owned land. The land would improve the Indians' economy and lessen relief costs. Proper recommendations would be made at the appropriate time for the enactment of legislation to add this land permanently to Indian reservations.

Mr. Chairman, this matter has been pending for almost 40 years now and I think that it is time for the Congress to take the necessary steps to transfer these submarginal lands to the various tribes. In New Mexico, these lands owned by the Federal government and used by the Navajos are not managed to the best interest of all concerned because of the uncertainties. The Navajo Nation has made improvement on the lands; however, each year it becomes more difficult to justify these expenditures because the title to these lands are clouded.

Thank you.

STATEMENT OF MARVIN J. SONOSKY, GENERAL COUNSEL FOR THE ASSINIBOINE AND
SIOUX TRIBES OF THE FORT PECK INDIAN RESERVATION, MONTANA

I appear as General Counsel for the Assiniboiné and Sioux Tribes of the Fort Peck Indian Reservation, Montana, in support of S. 1327, a bill to transfer to the Tribe in trust, title to the submarginal lands on the Fort Peck Indian Reservation.

The intent of the proposed bill is to vest the Tribes with beneficial title to all of the so-called submarginal lands on the reservation. Ever since the lands were acquired in the 1930's, they have been used by the Tribes and their members under a revocable permit from the Department of the Interior. If the bill becomes law, the Tribes will be able to manage the lands as tribal property in accordance with the Tribe's land consolidation and development programs. The Tribe has already invested more than \$5 million in tribal resources to acquire land on the reservation.

A little background as to the origin of so-called "submarginal lands" may be helpful. Federal documents in the possession of the Committee show that these lands were acquired by the United States during the depression of the 1930's under various relief statutes for "Demonstration Indian lands projects" under programs administered by the Federal Emergency Relief Administration and the Resettlement Administration. The acquisition was for the benefit of the reservation Indians, so that economic land units could be formed from the acquired lands combined with other tribal holdings. The stated Federal objectives of the acquisitions included the "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 lands to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs."

The administration of the lands was transferred to the Department of the Interior, for the " * * * permanent administration for the exclusive benefit of Indians." The documents disclose a complete understanding among all the Federal agencies involved, that acquired lands on Indian reservations were for the use of the Indians in connection with lands already owned by them. Contemporaneously, the Federal agencies expressly agreed to recommend the enactment of legislation to transfer trust title to the lands to the Indians.

In my own experience each Administration since 1959, including the present Administration, has recommended or supported bills to transfer trust title to the submarginal lands within the reservations to the tribes. There is precedent for the proposed law. As pointed out in the reports of the Secretary of the Interior, Congress, five times has transferred submarginal lands to Indian tribes. In all but one instance (Stockbridge Munsee), the transfers included both surface and minerals. Congress followed the principle that it was carrying out the promise and intent of the Government contemporaneous with acquisition, that these lands would be conveyed to the tribes.

In my statement on behalf of the Standing Rock Sioux Tribe in support of S. 1327, I offered suggested language changes for the consideration of the Committee. Those changes are adopted by reference as part of this statement.

The Assiniboine and Sioux Tribes strongly urge this Committee to favorably report S. 1327.

For the Tribes and myself, I thank you for the opportunity to present the views of the Tribes.

Senator ABOUREZK. Mr. Day.

STATEMENT OF JOE DAY, FORT PECK TRIBAL COUNCIL, MONTANA

Mr. DAY. My name is Joe Day. I am a member of the Fort Peck Tribal Council, Fort Peck Reservation, Mont. I am here to testify in support of S. 1327. I am going to address in particular the special provisions in this bill that proposes that any and all receipts received prior to the enactment of this act shall be deposited to the credit of the Indian tribe receiving such land.

In this respect, Mr. Chairman, the Fort Peck Tribe has resolved any benefit received as a result of this act shall be used for the promotion of Indian education and social and economic development for the tribal members of Fort Peck with specific and particular emphasis on land acquisition to increase and maintain the land base of the Fort Peck Reservation.

I thank you, Mr. Chairman.

Senator ABOUREZK. Thank you very much, Mr. Day.

Do you have a prepared statement, Mr. Kennerly?

Mr. KENNERLY. I will briefly go over it, and summarize it somewhat.

Senator ABOUREZK. If you feel you have to excuse yourself to catch a plane, please feel free.

Mr. Sargent.

STATEMENT OF MARVIN SARGENT, LAND USE PLANNER, MINNESOTA CHIPPEWA TRIBE, CASS LAKE, MINN.

Mr. SARGENT. Mr. Chairman, I have been asked on behalf of the Minnesota Chippewa Tribe to convey our greetings to you.

In our prepared statement, I will run through the background of the General Allotment Act and how tribal land base went from 1.7 million acres to 149,000 acres scattered throughout the six reservations. I am talking about the checkerboard pattern on reservations. It has made it quite difficult to develop any kind of land base or any kind of economic or social problems that would benefit our people.

I made a map available to Mr. Gerard which dramatically illustrates the land situation. I also give a brief background on submarginal lands, the intent of what submarginal lands were to do, specifically they were for demonstration and programs for Indian people for benefit of relieving the critical situation during the depression.

Under other headings, there are probable land use priorities we have established for use of the Chippewa Tribe. Basically, we have had problems to get this land back, there is always something coming back, to refer back for further study, or demands for land use planning.

We feel this land use planning is sort of ludicrous because we do not have any sort of information, we don't have other information that is necessary right now. It is almost necessary to have trust title of these lands in order to make any type of agreement with the Soil Conservation Service for minimal costs. We did project that some of the lands although they are economically submarginal would be used in tribal lands and agriculture lands, especially a large cattle ranch venture to provide some relief of the economic situation, to relieve unemployment which is critical.

There are not too many, five or six sections I think we would be using of the submarginal lands in connection with the Minnesota Chippewa Tribe.

As I indicated before, the condition of the lands is economically submarginal. That is about what they are. But to us they mean a lot more than economic and social problems.

In summary, Mr. Chairman, the Minnesota Chippewa Tribe urges the passage of S. 1327 in its total context.

We feel some of the arguments here today are really not relative, I believe. We have to have the lands to develop any type of programs on those reservations. We feel Congress should certainly pass this bill with the money being returned to the tribes, because this is one of the things the tribes do desperately need, some type of funds where they can develop the programs, at least some matching funds for other Federal programs.

That is about the summary of our statement, Mr. Chairman, and I thank you very much for this.

[The prepared statement of Mr. Sargent follows:]

STATEMENT OF MARVIN SARGENT, LAND USE PLANNER, MINNESOTA
CHIPPEWA TRIBE, CASS LAKE, MINN.

Mr. Chairman, my name is Marvin L. Sargent, Land Use Planner of the Minnesota Chippewa Tribe, the parent Tribal governing body of six Chippewa reservations in the State of Minnesota. Our headquarters are located in Cass Lake, Minnesota.

In behalf of the Minnesota Chippewa Tribe, Mr. Chairman, it is my privilege to convey our Tribe's greetings to you, and to the members of this distinguished committee.

BACKGROUND

Prior to the General Allotment Act of 1887, various treaties between the Federal Government and Chippewa Indians in Minnesota "forever" reserved for Tribal people approximately 1.7 million acres of land within six established reservations in Minnesota.

With the tragic passage of the General Allotment Act, and the subsequent passage of the Clapp Act of 1906, Tribal people of the Minnesota Chippewa Tribe witnessed the incredible phenomenon of their land ownership literally annihilated in less than 40 years from 1.7 million acres to the present 149,000 acres scattered throughout the six reservations in Minnesota. This unbelievable figure constitutes less than 10% of the original land base established by legal treaties.

Parallel to the above-mentioned Congressional Acts, the scattered "checkerboard" pattern of Tribal land ownership is a result of further systematic alienation of Indian lands that continued through the mid-1930's. Inter-agency agreements allowed for creation of such areas as the Tamarac National Wildlife Refuge, a waterfowl sanctuary much of which lies within the original exterior boundaries of the White Earth Reservation of the Minnesota Chippewa Tribe. The eventual disaster of just such land exchanges placed Tribal land ownership—already minute—into 40 and 80 acre tracts sporadically scattered over great distances, and virtually destroyed basic Tribal hopes of establishing any type of concentrated land area that could allow Tribal leadership to develop effective social, economic and political bases.

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

With your permission, Mr. Chairman, a color-coded map has been made available to Mr. Gerard, Committee Professional staff member. Should members of this committee so desire, an examination of the map will provide a clearer insight into land areas described in this statement. A close examination of the Red areas will dramatically illustrate the tragedy of present Tribal land status or the lack of concentrated Tribal land base.

SUBMARGINAL LANDS

However, Mr. Chairman, we did not travel a great distance to elaborate further on past injustices. We are here exclusively to offer Minnesota Chippewa Tribal testimony in support of and to urge passage of S. 1327, "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." The lands were acquired during the depression years of the early 1930's for the benefit of certain Tribes.

Although we do offer our Tribal support of S. 1327 in behalf of all Tribes with submarginal land interests, the Minnesota Chippewa Tribal testimony is dedicated primarily to approximately 28,554.8 acres of submarginal lands located almost centrally within the original exterior boundaries of the White Earth Reservation, one of the members reservations of the six Indian reservations that constitute the consolidated Minnesota Chippewa Tribe, the parent governing body of approximately 29,000 Chippewa Indians in Minnesota, and duly incorporated and chartered under provisions of the Indian Reorganization Act of 1934.

Even though the status of these lands is "economically submarginal"—which means basically that the lands probably cannot contribute realistically to sub-

stantial economic growth for the Tribe—when added to the existing 25,000 acres of Tribally-owned lands, a relatively concentrated Tribal land base of nearly 54,000 acres, fairly centralized within the White Earth Reservation, will be somewhat realized. Yet, considering the fact that the land area of the original White Earth Reservation was 829,440 acres, the combined Tribal and submarginal land areas will still be between 6 percent and 7 percent of the original reservation area.

Nevertheless, Mr. Chairman, the Minnesota Chippewa Tribe has established faith in Tribal staff capability, and is confident that the staff will extract innovative and productive projects from the limited potential of these lands. However, only Tribal trust title of these lands will allow local Tribal planning for the best possible utilization of the lands. Without clear title, the Tribe is hesitant to expend meager financial resources on any development possibilities.

PROBABLE LAND USE PRIORITIES

In times past, Mr. Chairman, and in sundry ways, efforts have been conceived to stall title transfer of these lands to the Tribe involved. The latest of these tactics include "Referral Back for Further Study," and, recently, "Demands for Land Use Planning."

The Minnesota Chippewa Tribe unanimously agrees that further study of the Submarginal Lands Issue is not needed.

Further, the Tribe feels that it is somewhat ludicrous to expect Tribes to develop intricate land use patterns on these submarginal lands. Remember, please, that the original status of these lands listed as "economically" submarginal. Only recently have Tribes been afforded the opportunity to plan on the Tribal level due to recent policy revisions of the Bureau of Indian Affairs, Economic Development Administration, Office of Native American Programs, and other programs. Additional liberalizations are needed within policies of the Departments of Agriculture, Housing and Urban Development, Labor and Health, Education, and Welfare before intricate Tribal land use planning on these lands can be initiated.

Relative to the submarginal lands located within the original boundaries of the White Earth Reservation of the Minnesota Chippewa Tribe, virtually no soils information is available anywhere that will assist Tribal personnel and personnel of cooperating agencies to determine the best utilization of the resources on these land areas.

It is safe to assume that most of the lands may possibly support limited Timber management projects. However, it is proven fact that Congress has granted neither full authority nor adequate funds to the Bureau of Indian Affairs in providing proper follow-up maintenance of the limited timber resources in this area. This alone represents a tragic lack of management direction that will certainly be improved by Tribal ownership, and local cooperative planning by Bureau of Indian Affairs and Tribal personnel. Under the present arrangement, the lack of direction is evident in the loss of mature and maturing timber, and the lack of timber related jobs.

Again, it is safe to assume that at least five or six sections of the submarginal lands can be incorporated into Minnesota Chippewa Tribal agriculture and grazing range development projects since these sections are immediately adjacent to existing Tribal lands that have been determined as agricultural and grazing land through a recently completed accelerated soils survey and mapping. It should be apparent that the addition of the submarginal lands will further enhance critical Tribal priorities in providing improved socio-economic situations for our Tribal people.

SUMMARY

In summary, Mr. Chairman, the Minnesota Chippewa Tribe urges the passage of S. 1327 in its total context. Trust title of these submarginal lands offers for our Tribal people an enormous uplift of spirit as well as a social and economic base.

Any and all receipts realized up to the present time and in the future will provide limited development funds so desperately needed by Tribes for development programs.

Mr. Chairman, Members of this Distinguished Committee . . . our country has just emerged from one of the most tragic and painful eras in our history. The spirits of the Minnesota Chippewa Tribe, and other tribal people, grieve with the rest of the nation over the tragedy.

Members of Congress, high Administrative Officials, and the President of our United States have publicly urged the people of our nation to "forget the tragic past, and to move on to other immediate priorities." They have urged the people of our Nation to "work together to heal the wounds" of recent historical events. The Minnesota Chippewa Tribe concurs.

Nevertheless, Mr. Chairman, there remain painful wounds from other eras that have never been permitted to heal; still-open wounds that have been allowed to fester, and that trouble the conscience of this Great Nation. How then can new wounds be healed while ancient wounds remain open and painful?

The Minnesota Chippewa Tribe believes in Spirit that the granting of trust title of the submarginal land to the various Tribes will be the initial healing ointment that the Administration and our Congress may use to bring about clear conscience for our Nation, and to begin the healing process of both ancient and recent wounds.

Mr. Chairman, this concludes the statement of the Minnesota Chippewa Tribe. In behalf of the Tribe, I thank you for the opportunity to testify before this distinguished Committee.

STATEMENT OF ROLAND KENNERLY, SECRETARY, BLACKFEET TRIBAL BUSINESS COUNCIL

Mr. KENNERLY. I appreciate the opportunity to appear before you in support of S. 1327.

Mr. Chairman, members of the committee, S. 1327 provides for the transfer of title of submarginal lands to various tribes including the Blackfeet Tribe of Montana. The following is the justification and statement of the Blackfeet Tribe for the return, in trust, of approximately 9,037 acres of such land 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 and Indian people. The acquisition of these lands would now enable the Indian population to make appropriate and constructive planned use of combined land areas in units suited to their needs.

The record discloses a complete understanding between the Federal agencies involved in the acquisition and administration of submarginal land and the Indian tribes.

This understanding included (1) that the land was being selected for acquisition in connection with the demonstration Indian projects; (2) that it was needed by the Indians; (3) that it would be utilized by the Indians in connection with the use of Indian-owned land; and (4) that recommendations would be made at the appropriate time for the enactment of legislation to add this land permanently to the Indian reservations. The Blackfeet believe that the time has indeed come for such legislation.

The total 9,037 acres involved here are located within the external boundaries of the Blackfeet Reservation. The acreage is scattered throughout the reservation. The return of these lands is essential to the overall land management and planning program the Blackfeet have developed. 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, if and when requested. For the moment, however, the Blackfeet Tribe

would like to point to several areas as justification for the conveyance, in trust, of these lands.

One, 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.

Two, conveyance in trust to the tribes would remove the "cloud" on the titles to the properties 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 lands in their present state. The only use to which the Blackfeet have been able to put this land has been in the area of grazing. Many persons would like to use the land for housing and other higher economic uses.

Three, 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 development if they are to defeat the poverty syndrome.

Four, 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 this type of development, since there are producing fields within 15 miles and less of the submarginal lands on the reservation. This is very important to the Blackfeet Tribe since it relies heavily on oil and gas revenues to sustain the ever-growing reservation population.

Five, the Blackfeet Tribe at present is purchasing land with its own tribal revenues and through the Farmers Home Administration. The tribe is assuming increasing responsibility for the management of its entire reservation. The checkerboarding of our 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 for the tribe, the tribe could exercise greater control over the property and improve it for the benefit of tribal members.

In its present status, the tribe and its members are reluctant to improve the land even to the extent of fencing and stockwater. Housing is never considered as appropriate for this land since the titles are not secure and clear, and as a consequence a valuable land use is going to waste.

Six, there will be no reduction of lands from the tax base in Glacier County, Mont., where such lands are located. 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.

Mr. SKEET. I have a prepared statement I would like to submit for the record.

Senator ABOUREZK. Please do.

Mr. SKEET. And in our introductions at the beginning, I missed Edward T. Begay, who is the councilman in the area we are talking about. He is also a member of the advisory committee and chairman

of the Economic Planning Committee of the Navajo Tribal Council. To my right again, is Mr. Jim Shorty, who is director of Navajo land administration in the eastern Navajo area which is known as the checkerboard area. Beyond here on the first row, I have Charley Y. Begay, a member of the land board, who does carry out the administration of the land administration area.

STATEMENT OF WILSON SKEET, VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL, ACCOMPANIED BY JIM SHORTY, NAVAJO LAND ADMINISTRATION; AND EDWARD BEGAY, NAVAJO TRIBAL COUNCIL

Mr. SKEET. I would like to highlight my prepared statement, Mr. Chairman.

The area we have is south of Gallup, N. Mex., which is the northwest New Mexico area.

The 70,000 acres we are talking about—I have a map here; it is checkerboarded—but in between the checkerboard we do own the land individually and also as a tribe, both in trust. So it makes a very difficult situation here.

Senator ABOUREZK. Is the submarginal land checkerboarded there?

Mr. SKEET. Yes, it is.

I do have a map here which shows. Here is Gallup, N. Mex., and the area we are talking about is in this area. It is a checkerboard, but in between the area the Navajo Tribe owns the land both individually and as a tribe in trust. I do have this map available if the staff wants it.

Senator ABOUREZK. We would like to have that for the record if you will leave it.

[The map was retained in the committee files.]

Mr. SKEET. Our people live on and have occupied the land and have been using it for many, many years. So we are not moving anybody off the land. The reason I am making this clear, this is in a checkerboard area. The Navajo Nation clearly supports the bill S. 1327 simply because this bill will correct the long overdue commitment from the U.S. Government.

If this bill is approved and we get the submarginal lands back as Navajo tribal land, we can do all of the necessary major improvements in the area, road construction, develop feedwells, and right-of-way for roads, rights-of-way for powerlines, and also get the benefit of the Federal housing program in the area as well as some business potential site in the area. But due to not having the title to such land, we cannot do these things.

Also, the appropriation from the Navajo Tribe. We do not have the title to the land. We don't get all of the benefit from the funding of the Navajo Nation.

In this same area, as well as the eastern Navajo area, we do have a plan as far as the grazing administration is concerned, so the Navajo is very much a part in planning this. That is why we do have our land board member here, and here, if we get the land, if we get the title, we can stabilize our plan permanently and make further improvement.

In my statement, I mentioned that we would like to have a provision in there for further land exchange for consolidation purposes because in our area we do have some temporary land exchange use in effect—

Senator ABOUREZK. That is on page 5 of your statement?

Mr. SKEET. Yes.

Senator ABOUREZK. The committee intends to look in and consider that recommendation. We thank you for calling that to our attention.

Mr. SKEET. Thank you very much, Senator. I also do have a Navajo Tribal Council resolution which fully endorses the bill and requests the title be transferred to the tribe.

I have a letter from December 1973 from Edward Junker, at that time McKinley County Board of Commissioners chairman, which also endorses the transfer. And they say :

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.

Senator ABOUREZK. That will also be accepted into the record.

Mr. SKEET. As I said at the beginning, Senator, I would like on behalf of the Navajo Nation to thank you, Senator Abourezk, Senator Bartlett, Senator Burdick, Senator Domenici, Senator Hart, Senator Humphrey, and Senator McGovern, and Senator Mondale, for introducing such a bill to benefit the Indian tribes which will lead to a very important much needed development that these people must have. So we do fully support the bill as it is written on the mineral or accrued income. Senator, for you and your colleagues, I think it is only fair that the Indians who were there from the beginning are entitled to it. So I think it will be fair to say the Congress consider it just like the bill is written.

That is just giving back what the Indians had before, if anything.

Senator ABOUREZK. Wilson, thank you very much. In order to get administration support for that accrued income, we are going to classify you folks refugees of some sort and that will get you immediate support. [Laughter.]

[The prepared statement of Mr. Skeet and other material referred to follows:]



THE NAVAJO NATION

WINDOW ROCK, ARIZONA 86515

PETER MacDonald
Chairman, Navajo Tribal Council

WILSON C. SKEET
Vice Chairman, Navajo Tribal Council

STATEMENT OF WILSON C. SKEET, VICE CHAIRMAN, NAVAJO TRIBAL
COUNCIL IN SUPPORT OF S. 1327

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 S. 1327. The Bill includes land on 17 Indian Reservation, 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 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.

Some people have said that title to this land should be placed in the people who occupy it. I have investigated this idea very thoroughly because my whole family has lived in this area and on some of this land for many years. Should title go to individuals occupying the land, I am sure, I and members of my family can claim

several tracts. However, it is apparent that it would be difficult, if not impossible, to determine the exact names to place on the title. Many closely related Navajo families live in the same area and therefore many names would be on the title or someone would be left out.

The question of taxation sometimes is raised in this case as if the tax base of McKinley County would be reduced if the announced intent of the Federal Government is carried. The land is not taxable now and is not likely to become taxable in the future. Whatever happens the tax base of McKinley County will not be lowered. May we suggest that the people who raise this tax question are not honest. For years they have taken all or most of the taxes for their benefit and demanded that the Federal Government pay more than the full cost of everything they do for Indians, including education. This statement is supported by a recent decision of the Federal Court.

There are no funds on deposit with the Department of Interior and although considerable exploration has been carried on in the general area there are no minerals in commercial quantities. There are some coal deposits but they are so thin, scattered and of such low quality that production is not predicted in the foreseeable future. Ground water in the area is deep and difficult.

The highest and best use for the land is very marginal livestock grazing and homesites for Indian people who are employed in the Gallup area, usually at comparatively low paying jobs. This is the use we are now making of the land and this is what we plan to continue.

The Bill S. 1327 provides that this land is to be made a part of the Navajo Reservation. We support the Bill as written, however, we recognize the questions this may present. We at one time were very

suspicious of County Government but this is no longer true. Navajo people in McKinley County have learned to vote and now realize they can elect every public officer in the county. We already own several thousand acres in McKinley County both as Individual Indian Allottees and in the name of the Navajo Tribe. This is sometimes said to cause a jurisdiction problem but declaring that the United States holds the 70,000 acres in trust for the Navajo Tribe will not affect the problem one way or the other.

The land involved here is as you say, it is submarginal, but it has long been our home. But we have a feeling of security and of being at home on this land that seems to be hard for you people to understand. Now we are disturbed when we are told that we hold only a Revocable Permit. We, therefore, respectfully request that the Government carry out its announced plans and promises and that S. 1327 be enacted.

We are not absolutely sure that there is exactly 70,000 acres of this land. We take it that the intent of this legislation is to hold in trust for the Navajo Tribe all of the land in McKinley County purchased under the Jones-Bankhead Act except that already given to other Indian tribes or otherwise dispersed of. The 70,000 acres should be followed by the usual statement "more or less."

We notice that in a Bill prepared by the Department of Interior on this same subject there was 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 S. 1327 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 the 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.

Wilson C. Skeet, Vice Chairman
Navajo Tribal Council
Window Rock, Arizona 86515

CF-2-73

Class "C" Resolution
No BIA Action Required.

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.

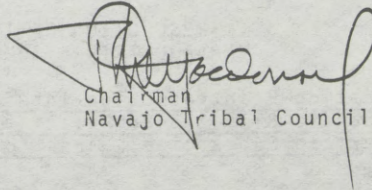
NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council respectfully requests the reintroduction into the 93rd Congress of Senate Bill S-3688 (introduced into the 92nd 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

EDWARD JUNKER
Chairman

ANN PINTO
1st Vice-Chairman

DAVID DALLAGO
2nd Vice-Chairman



County of McKinley

Board of Commissioners

MICHAEL E. COSTELLO
County Manager

PHONE 722-3869
P. O. Box 70
GALLUP, NEW MEXICO 87301

December 6, 1973

Mr. Wilson Skeet, Vice Chairman
Navajo Tribal Council
Window Rock, Arizona

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.

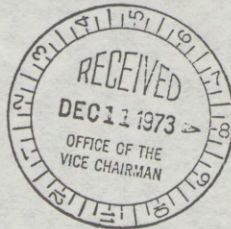
As you know, the Board voted to support any action that would transfer title to the land in question from the Federal government to the individual Navajo's presently living on the lands. Further, it was the Board's decision that they would endorse additional efforts to see that all mineral rights on 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
Edward Junker
Chairman

EJ:ra



Mr. SHORTY, Mr. Chairman, I would like to submit for the record a very general geologic study of the area we have pertaining to minerals available underground and also the exploratory activities of the area.

Senator ABOUREZK. That is excellent. We appreciate that very much. Thank you.

Mr. SKEET. The document here is done by our own Navajo Tribal mineral department.

Senator ABOUREZK. Thank you very much.

Mr. SKEET. If there are any further questions, we will try to answer them, Senator.

[The study referred to follows:]



THE NAVAJO NATION

WINDOW ROCK, ARIZONA 86515

5 May 1975

PETER MacDonald
Chairman, Navajo Tribal Council

WILSON D. KEET
Vice Chairman, Navajo Tribal Council

MEMORANDUM

TO : Roy Scrivner, Director
Office of Navajo Land Administration

FROM : Robert F. Schryver, Director
Office of Minerals Development

SUBJECT: Minerals Evaluation of 70,000 acres' south of Gallup, NM

Attached is a letter of transmittal and a geologic evaluation prepared by Mr. William D. Armstrong of this office which pertains to the subject acreage.

It should be noted that this evaluation is based primarily upon available published literature combined with a brief field reconnaissance of the area. Detailed geologic data including sub-surface information and any sample results were not available to Mr. Armstrong. Based on the available information, I believe Mr. Armstrong's conclusions are valid.

Robert F. Schryver, Director
Office of Minerals Development

RFS/lw

Attachment

A MINERALS INVENTORY AND EVALUATION PROGRAM ON

SOME 70,000 ACRES OF LAND

SUBJECT TO HEARINGS ON H.R. 5778

*W.D. Armstrong, Geologist
Office of Minerals Development
The Navajo Tribe*

5 May 1975

SUMMARY:

A minerals inventory and evaluation program conducted on some 70,000 acres of land located south of Gallup, New Mexico, and subject to hearings on H.R. 5778, indicates that the lands in question have a very limited potential for minerals development. Geologic conditions limit minerals potential to only two commodities, coal and uranium.

Several formations present in the study area contain coal seams, but these seams appear to be too thin, lenticular, and discontinuous for mining purposes. The maximum thickness of any observed coal seam was less than 3 feet, a thickness consistent with outcrop descriptions in the available literature.

Uranium potential is limited to two rock units, the Dakota Sandstone and the Morrison Formation. Limited uranium production has been reported from a small mine northeast of the study area, but this mine has been inactive for a considerable period of time. Three separate drilling programs have been conducted along the western flank of the Zuni Mountains to the east of the study area, but the companies involved plan no further uranium exploration in the area because of the unattractive results of these drilling programs. The steep dips of the geologic formations along the Zuni uplift imply that only that strip along the uplift could contain favorable host rocks at depths suitable for mining. In the center of the area, any uranium-bearing strata would be too deep for an economic operation.

The geologic environment of the study area precludes favorable exploration targets for petroleum, base metals, precious metals, or construction aggregates.

CONCLUSIONS:

Minerals potential in the study area is limited to two commodities, coal and uranium, by the geologic environment. Coal seams have been observed and reported throughout the area, contained within the Dakota Sandstone and the Mesaverde Group. The Dakota coals are thin, poor in quality, and uneconomic for mining purposes. The Mesaverde coals are generally thin and lenticular, and do not extend along the outcrops for great distances. The thinness of the coal seams, the massive sandstone overburden, the lenticularity of the coal beds, the many bone-coal partings, the distance to the nearest railhead, and the small size of the deposits tend to make a strip mining operation very uneconomical. No substantial coal production has been reported from the study area, although local Indians have mined small amounts of coal for local consumption.

Uranium potential throughout the study area is limited to a strip along the western edge of the Zuni uplift, for the steep dips of the strata imply that the central portion of the study area would have no uranium potential at economic depths. Any uranium deposit in the center of the Gallup sag would be, in all probability, too deep to mine. One small mine to the northeast of the study area has a record of limited uranium production, and three separate drilling programs were conducted along the west flank of the Zuni Mountains. No economic uranium deposits were encountered during the drilling programs, and there is no uranium activity in the study area at present.

The lands in question are scattered among parcels of private, Indian Allotment, National Forest, State, and public domain lands, and it would be very difficult, if not impossible, for any company to put together an acreage block of sufficient size to warrant exploration and mining of any coal deposit.

A MINERALS INVENTORY AND EVALUATION PROGRAM ON

SOME 70,000 ACRES OF LAND

SUBJECT TO HEARINGS ON H.R. 5778

INTRODUCTION:

This report summarizes a minerals inventory and evaluation program conducted on some 70,000 acres located south of Gallup, New Mexico, and subject to the Subcommittee on Insular and Interior Affairs hearings on H.R. 5778. This Bill is intended to convey title to certain lands to various Indian Tribes, and the question of minerals potential on these lands has arisen.

The study area is located within the Gallup sag, a southwestern extension of the San Juan Basin. The Gallup sag is bordered on the north by the Navajo Indian Reservation, on the east by the Zuni Mountains, on the south by the Zuni Indian Reservation, and on the west by the Defiance uplift. The lands involved in the hearings on H.R. 5778 are scattered among parcels of Indian allotment, State, National Forest, private, and public domain lands in an irregular fashion.

PURPOSE AND SCOPE OF STUDY:

The objectives of this study include: (1) a comprehensive minerals inventory and evaluation of the study area, (2) a search of published and unpublished literature, (3) a field reconnaissance, and (4) oral communication with companies which have conducted exploration activities within the acreage in question. No detailed geologic mapping, sampling, or testing was conducted for the purposes of this study.

PHYSIOGRAPHY:

The study area is located within the Gallup sag,⁴ a southwestern extension of the San Juan Basin, which is bordered by the Zuni uplift to the east and the Defiance uplift to the west. The San Juan Basin is a major physiographic subdivision of the Colorado Plateau province, located in southwestern Colorado and northwestern New Mexico.

The most distinctive landscape forms in the Gallup sag are the mesas, rock terraces, dry arroyos, cuestas, and erosional escarpments. These features are the result of long periods of erosion acting upon gently-dipping sediments in an arid to semi-arid climate. Erosion takes place during spring and fall windstorms and summer thunderstorms. The surface of the area is flat and monotonous, and is broken by low ledges of sandstone and shale.

Topographically, the Gallup sag has elevations ranging from some 6,500 feet in the central portion to approximately 8,000 feet along the foothills of the Zuni Mountains to the east. Annual precipitation averages from 10 to 14 inches per year throughout the area, with most of the rain occurring as summer thunderstorms.

Juniper and piñon are found throughout the Gallup sag, with stands of ponderosa pine at elevations greater than 7,000 feet. Much of the Gallup sag is rolling grasslands, with vast areas of badlands nearly devoid of vegetation along the arroyos and drainages. Overgrazing has reduced much of the grasslands to very sparse cover. Lower elevation grasses include western wheatgrass, crested wheatgrass, Indian rice grass, and blue gramma, with western wheatgrass, crested wheatgrass, slender wheatgrass, hairy gramma, and sideoats gramma present in open ponderosa clearings at higher elevations.

GEOLOGIC SETTING:

Sediment thickness in the Gallup sag is approximately 6,300 feet (Lease and Shomaker, 1971, p. 39). These strata are relatively flat-lying in the central portion of the sag, but are nearly vertical along the eastern edge adjacent to the Zuni Mountains. Several gently-dipping anticlines occur in the south-central part of the sag, and a few north-trending and northeast-trending faults are shown on geologic maps of the area (Cooley and others, 1969, Map, Sheet 8). The Mancos Shale, the members of the Mesaverde Group, and a number of Tertiary sandstones and shales crop out throughout the sag. Cretaceous, Jurassic, and Triassic rocks crop out on the adjacent Zuni and Defiance uplifts.

STRATIGRAPHY:

The strata in the Gallup sag are listed below, in ascending order:

MESAVERDE GROUP

Menefee Formation
 Allison Barren Member
 Cleary Coal Member
 Point Lookout Sandstone
 Crevasse Canyon Formation
 Gibson Coal Member
 Bartlett Barren Member
 Dalton Sandstone Member
 Dilco Coal Member
 Gallup Sandstone

MANCOS SHALE

DAKOTA SANDSTONE

MORRISON FORMATION

COW SPRINGS SANDSTONE

TODILTO LIMESTONE

ENTRADA SANDSTONE

WINGATE SANDSTONE

CHINLE FORMATION

MINERALS POTENTIAL:

The geologic environment of the Gallup sag restricts minerals potential to only two commodities, coal and uranium. Little or no possibility exists for the development of commercial quantities of petroleum, precious or base metals, non-metallics, or construction aggregates in the study area.

COAL:

Coal is present in the Dakota Sandstone and the Mesaverde Group in the southern San Juan Basin. The Dakota coals are thin, poor in quality, and uneconomic for mining purposes (Lease and Shomaker, 1971, p. 39). The Dakota Sandstone is relatively unimportant as a potential coal-producing formation throughout the San Juan Basin, although some thin stringers and lenses of coal occur in the formation. The coals occur in a non-marine carbonaceous sequence near the stratigraphic center of the unit, but coal has been noted at several localities in the uppermost portion of the Dakota near the contact with the overlying Mancos Shale. The Mancos is not coal-bearing (Beaumont, 1968, p. 33).

The Gallup Sandstone, the lowermost member of the Mesaverde Group, overlies the Mancos Shale except in the vicinity of the San Juan River, where it divides the Mancos into a lower and an upper member. The Gallup contains increasing amounts of coal in its upper part south of the Chuska Mountains, and this coal is related to the overlying coal-bearing Dilco Coal Member. Coal beds have been commercially exploited from the upper portions of the Gallup Sandstone a few miles west of the city of Gallup (Beaumont, 1968, p. 33). No coals have been mined from the Gallup Sandstone in the study area.

The contact of the Gallup Sandstone is transitional with the overlying Dilco Coal Member of the Crevasse Canyon Formation, a stratigraphic sequence which represents the regressive lagoonal deposits associated with the Gallup regression (Beaumont, 1968, p. 33). The Dilco contains excellent coal deposits in the vicinity of Gallup, but the coal sequence thins rapidly to the north. Dilco beds, ranging in thickness from $2\frac{1}{2}$ to 7 feet, have been mined in the Gallup area. The Dilco was probably the first coal to be mined in the southern San Juan Basin because of its proximity to the railroad.

In Ranges 10 and 11 North, the coal-bearing beds in the Mesaverde Group crop out in Townships 16, 17, and 18 West. Most of this area is in the eastern portion of the Zuni Indian Reservation, and no significant coal outcrops were observed in the study area.

The Dilco Coal Member is overlain by a barren interval known as the Bartlett Member of the Crevasse Canyon Formation. The Bartlett, in turn, is overlain by the coaliferous deposits of the Gibson Coal Member. The unit is generally a transgressive deposit, although the lower portion to the north and northeast of Gallup is thought to be of regressive origin (Beaumont, 1968, p. 35). The Point Lookout Sandstone separates the Gibson from the Cleary Coal Member above, throughout most of the basin, but the Point Lookout pinches out in the vicinity of Gallup where the Gibson and Cleary Members combine to form a single coal-bearing unit. North of Gallup, the Point Lookout is split by the Satan Tongue of the Mancos Shale.

The Cleary Coal Member of the Crevasse Canyon Formation overlies the Point Lookout Sandstone except in the southernmost portion of the basin, where the Point Lookout pinches out. South of the pinch-out, it is not practical to distinguish between the underlying Gibson and the overlying Cleary.

The Cleary represents the regressive paludal environment, and is poorly exposed in the flats between the Zuni uplift and Gallup. Shomaker (1971) reports that the Cleary coal is generally thin and lenticular, with occasional seams having a thickness of 5 to 7 feet.

The coal beds in the upper part of the Menefee Formation are quite discontinuous and lenticular. Beaumont (1968, p. 37) reports occurrences of nearly pure coal on the order of 15 to 20 feet in thickness, which terminate abruptly in a north-south direction to the north of the study area. These thick accumulations of coal are closely related to the intertongues between the Menefee and the Cliff House Sandstone, and static shoreline conditions over long periods of time during the Cretaceous.

In Township 10 North, coal outcrops are limited to Range 17 West (Kottlowski, 1971, p. 80), on the Zuni Indian Reservation and out of the area of this study. Total strippable coals might be some 6.2 million tons in the School mine coal group of the upper Gallup Sandstone near the Rio Pescado. At best, strip mining of these coals would be marginal because of their thinness, lenticularity, many bone-coal partings, local overburden of massive sandstone, the distance to the nearest railhead, and the small size of the deposits.

In Township 11 North, coal outcrops are restricted to Ranges 16 and 17 West (Kottlowski, 1971, p. 78-80), located on the Zuni Indian Reservation and the Cibola National Forest. No significant coal outcrops were observed in the study area, the western portion of which, in this Township, is largely covered by Tertiary sediments. Kottlowski (1971, p. 80) made no reserve estimates of the deposits on Zuni and National Forest lands, and no indication of possible coal reserves in Township 11 North, Ranges 18, 19, 20, and 21 was observed during the field reconnaissance portion of this study.

In Township 12 North, coal outcrops are restricted to Townships 16 and 17 West (Kottlowski, 1971, p. 77) which are located on the Zuni Indian Reservation, and Ranges 18 and 19 West (Lease and Shomaker, 1971, p. 40) which is included in the study area. Coal has been reported in Dilco Member and Gallup Sandstone outcrops (Lease and Shomaker, 1971, p. 40), and was observed in the reconnaissance portion of this study. The coal outcrops observed in Township 12 North, Range 18 West were confined to Sections 7 and 8 of the study area, and were very thin and lenticular. In all probability, none of the Gallup coal seams are of sufficient thickness to be minable. The Gallup Sandstone crops out over some 12 miles in the northeastern part of Township 12 North, Range 19 West. In the study area, coal outcrops were only observed in Sections 1 and 11, and were very thin and lenticular. The thickest observed outcrop was less than 2 feet in thickness, and extended for a limited distance along the outcrop. No commercial coal reserves are indicated in Township 12 North, Ranges 16, 17, 18, 19, 20, and 21 West.

In Township 13 North, coal potential is limited to Townships 17, 18, and 19 West (Lease and Shomaker, 1971, p. 40). In T. 13 N., R. 17 W., the Dilco Member crops out in the southeastern and southwestern corners, although the outcrops are too high in the stratigraphic section to contain coal. The Gibson Member underlies most of the central and northwestern portions of the Township, and contains coal in isolated outcrops. No observed coal beds were more than 3 feet in thickness, and would be uneconomic to mine. The Dilco and Gibson Members are both present in Township 13 North, Range 18 West, but no coal of strippable thickness was observed in either unit. The Gallup Sandstone crops out over the southern half of the township, and underlies the remainder. The Dilco Member is exposed over the northern portion of the township. No coal beds over three feet in thickness were observed or have been reported.

North of the boundary between Township 13 North and Township 14 North, several isolated Dilco coal outcrops were observed in arroyos and road cuts on or near the study area. None of these coal seams had a thickness in excess of 3 feet, and all were very lenticular. The observed outcrop with the most coal potential is located on public domain land along Bread Springs Wash, some 2 miles east of State Route 32. In this outcrop several 1 to 2 foot thick coal seams separated by thin shaly partings were observed, and the coal-bearing interval had a total thickness of some 8 feet. However, this outcrop is not in the study area, and no significant coal outcrops were observed in the study area.

URANIUM:

The only recorded uranium production in the Gallup sag has been from the Diamond Two mine, located along the northwestern tip of the Zuni uplift and to the northeast of the study area. Here, limited amounts of uranium were produced from the Dakota Sandstone for a short period of time. No production records were available for this study.

Three uranium exploration companies have conducted small drilling programs along the western flank of the Zuni Mountains within the last ten years. Oral communications with personnel of Continental Oil Company, Ranchers Exploration Company, and United Nuclear Corporation indicate that they are not planning any further uranium exploration programs in this area, and that these decisions were based on the results of the drilling programs. Target horizons for these drilling programs were the Dakota Sandstone and the underlying Morrison Formation, both of which have produced uranium in other areas and are considered to be favorable host rocks for uranium mineralization.

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Senator ABOUREZK. Before we adjourn, I want to recognize some people in the audience. John Allen, chairman of the Fort Belknap Tribe, Herb Barnes of the Blackfeet Tribe, who has a long history of involvement in Indian affairs in Seattle, Wash., and the Blackfeet Reservation. We want to welcome all of you to the committee hearings here today.

I want to thank the panel, and I understand the National Congress of American Indians has a statement for the record as well.

[The prepared statement of William Bucholz, of the National Congress of American Indians follows:]

STATEMENT OF WILLIAM BUCHOLZ, ADMINISTRATIVE OFFICER, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. Chairman, my name is William Bucholz, administrative officer 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 S. 1327: "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."

S. 1327 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 (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 * * * tribes, are hereby declared to be held by the United States in trust for each said tribe and shall be a part of the heretofore established for each said tribe."

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

SEC. 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 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."

Mr. Chairman, for the tribes, I commend you and your colleagues 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, 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 areas 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, 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 Indian Claims Commission; yet the Indian Claims Commission Act of 1946 (60 Stat. 1050), 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 unjust.

Members of Congress in the past have held up the consumation 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've 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 think you for this opportunity to testify before this distinguished committee.

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.

Senator ABOUREZK. We appreciate your testimony in support of this legislation. The hearings are adjourned.

[Whereupon, at 11 a.m., the committee was adjourned.]

