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REPORT TO THE COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
UNITED STATES SENATE



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Information On Federally Owned
Submarginal Land Within Or Near
The Lac Courte Oreilles Reservation
In Wisconsin

B-147652 B-147655

Bureau of Indian Affairs
Department of the Interior

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

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FEB. 15, 1973





COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-147652
B-147655

R Dear Mr. Chairman:

In accordance with your request of July 31, 1972, this is our report containing information on federally owned submarginal land within or near the Lac Courte Oreilles Reservation in Wisconsin. This report updates a section (pp. 98 to 103) of our 1962 report on review of proposed legislation for conveying to certain Indian tribes and groups submarginal land administered by the Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, Aug. 13, 1962).

We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

A handwritten signature in cursive script that reads "James B. Stets".

Comptroller General
of the United States

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

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C o n t e n t s

	<u>Page</u>
DIGEST	1
CHAPTER	
1 INTRODUCTION	5
Lac Courte Oreilles Reservation	5
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin	6
2 INFORMATION ON SUBMARGINAL LAND, TRIBAL LAND, AND TRIBAL FINANCIAL RESOURCES	8
Submarginal land	8
Improvements	9
Present use	9
Potential use	10
Planned use and income derived therefrom	10
Water and mineral resources	11
Tribal land	11
Tribal financial resources	14
Summary	15
APPENDIX	
I Letter dated July 31, 1972, from the Chairman, Committee on Interior and Insular Affairs, United States Senate	17

ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office

COMPTROLLER GENERAL'S REPORT
TO THE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS
UNITED STATES SENATE

INFORMATION ON FEDERALLY OWNED
SUBMARGINAL LAND WITHIN OR NEAR
THE LAC COURTE OREILLES
RESERVATION IN WISCONSIN
Bureau of Indian Affairs
Department of the Interior
B-147652, B-147655

D I G E S T

WHY THE REVIEW WAS MADE

The Chairman of the Senate Committee on Interior and Insular Affairs requested the General Accounting Office (GAO) to

--update the factual data in the 1962 GAO report on its review of proposed legislation for conveyance of submarginal land administered by the Bureau of Indian Affairs (BIA) to certain Indian tribes and groups and

--comment on how conveyance of the submarginal land to the tribes can contribute to their social and economic advancement.

FINDINGS AND CONCLUSIONS

There are 13,185 acres of federally owned submarginal land within or near the Lac Courte Oreilles Reservation in Wisconsin, which is inhabited by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians. (See p. 5.)

The Government acquired the submarginal land during the 1930s for about \$26,000. In January 1971 BIA reported that the average value of the land was about \$112 an acre. On this basis, the submarginal land would have a total value of about \$1.5 million. (See pp. 8 and 9.)

Usable improvements on the submarginal land consist of 10 houses

built in the 1938-40 period or earlier and have estimated values ranging from \$500 to \$1,000. Also, in 1963 and 1964 BIA spent about \$30,000 for timber stand improvement and about \$17,000 for timber access roads. (See p. 9.)

The submarginal land is used primarily for timber production under a timber management plan prepared in 1967 and 1968 by BIA. During the 10-year period ended December 31, 1971, the Government received \$57,439 in timber revenue. (See p. 9.)

A BIA official said that the best use of the submarginal land is for timber production and for recreational purposes. Other potential sources of revenue from the land are gravel deposits and wild rice and cranberry marshes. (See p. 10.)

According to a BIA official, the principal value of water resources on the submarginal land is for recreational purposes, such as fishing and resort facilities. (See p. 11.)

A 1960 report by the Geological Survey, Department of the Interior, pointed out that the reservation did not contain any known mineral deposits that were prospectively valuable. In August 1972, a BIA official said that this was the most current information available on mineral resources on the

reservation. The official added that sand and gravel deposits, which would be valuable if roads and highways were built in the area, are interspersed on the reservation. (See p. 11.)

The Government holds title, in trust for the tribe, to 3,874 acres of tribal land located within the reservation boundaries and to 71 acres outside the reservation. BIA classified most of this land as forest land from which the tribe received timber revenues of \$6,235 for the 10-year period ended December 31, 1971. (See pp. 11, 12, and 14.)

Since 1962, a number of improvements have been made on tribal land, primarily housing. In 1970, 29 housing units were constructed under the Department of Housing and Urban Development's low-rent public housing program at a cost of \$607,000. As of August 1972, the 29 units were occupied. In August 1972, the Department of Housing and Urban Development approved a project for constructing 70 new housing units at a cost of about \$1.7 million. (See p. 12.)

A BIA housing survey completed in June 1971 disclosed that 71 homes on the reservation required renovation. In fiscal year 1972, \$15,900 was obtained from BIA's annual appropriation for housing improvement to renovate four homes. Also, 67 homes are programmed for renovation at an estimated cost of \$199,000. (See p. 12.)

In 1971, the tribe prepared a reservation development program which listed four priority projects--replacement of cranberry marsh equipment and construction of a multipur-

pose community center, a fish hatchery, and a marina--that were planned to be carried out with Federal assistance. None of these projects were underway at the time of our review in August 1972. (See pp. 12 and 13.)

In May 1972, the Indian Claims Commission awarded a judgment of \$529,000 to the Chippewa Indians of the Mississippi and Lake Superior tribes. The award was for additional consideration for land ceded by the tribes to the Government under the treaty of August 2, 1847. The Commissioner of Indian Affairs has delayed distribution of the award until anticipated larger awards are made for three claims pending before the Indian Claims Commission. (See p. 15.)

The three pending claims involve final settlement for land ceded to the Government under the treaties of 1837, 1842, and 1854. Two of the claims were filed by the Chippewa Indians of the Mississippi and Lake Superior tribes and one was filed by the Chippewa Indians of Lake Superior. As of November 1972 the claims were still pending before the Indian Claims Commission. (See p. 15.)

Tribal officials told GAO that if title to the submarginal land were conveyed to the tribe, the tribe would use the land for timber production, homesites, and recreational purposes. The revenue from timber sales, which presently accrues to the Government, would accrue to the tribe except for the portion BIA would charge to cover its costs for managing the timber resources. (See p. 10.)

A BIA official estimated that timber revenues from the submarginal land

during fiscal years 1973 and 1974 would be about \$7,000 a year. A tribal official said that the tribe would use the income to underwrite tribal operating expenses, primarily salaries. (See p. 10.)

Consequently GAO believes that the conveyance of the submarginal land to the tribe could contribute to its social and economic advancement. (See p. 16.)

CHAPTER 1

INTRODUCTION

Pursuant to a request dated July 31, 1972, from the Chairman of the Senate Committee on Interior and Insular Affairs (see app. I) and in accordance with subsequent discussions with his office, we have updated the factual data on pages 98 to 103 in our August 1962 report on submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior.¹ The Chairman also requested that we comment on how conveyance of the submarginal land to the Indian tribes can contribute to their social and economic advancement.

This report pertains to the 13,185 acres of federally owned submarginal land within or near the Lac Courte Oreilles Reservation in Wisconsin, which is inhabited by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians.

We reviewed records and interviewed officials and representatives of BIA's central office in Washington, D.C.; BIA's area office in Minneapolis, Minnesota; BIA's Great Lakes agency office in Ashland, Wisconsin; and the tribe. We interviewed also the Department of Agriculture's District Conservationist, Hayward, Wisconsin; the Sawyer County, Wisconsin, register of deeds and the treasurer; and the tribal attorney.

LAC COURTE OREILLES RESERVATION

The Lac Courte Oreilles Reservation, located in Sawyer County was established on September 30, 1854, by a treaty (10 Stat. 1109) between the Government and the Chippewa Indians of Lake Superior. The reservation encompasses an area of 69,136 acres.

¹"Report on Review of Proposed Legislation for Conveyance to Certain Indian Tribes and Groups of Submarginal Land Administered by Bureau of Indian Affairs, Department of the Interior" (B-147652, B-147655, Aug. 13, 1962). This report was submitted to the House and Senate Committees on Interior and Insular Affairs.

Through Government-supervised land sales, Indian ownership of the lands has been reduced significantly. The following table shows the ownership of the land within the reservation boundaries and of certain land outside the reservation as of June 30, 1972.

	<u>Acres</u>		<u>Total</u>
	<u>Within reservation boundaries</u>	<u>Outside reservation boundaries</u>	
Indian land:			
Allotted to individual Indians	26,345	-	26,345
Tribal (title held by the Government in trust for the tribe)	<u>3,874</u>	<u>71</u>	<u>3,945</u>
	<u>30,219</u>	<u>71</u>	<u>30,290</u>
Other land:			
Submarginal land, Government owned	10,519	2,666	13,185
Great Lakes agency office--administra- tive reserve of BIA	5	-	5
All other ownerships	<u>28,393</u>	<u>-</u>	<u>28,393</u>
	<u>38,917</u>	<u>2,666</u>	<u>41,583</u>
Total	<u>69,136</u>	<u>2,737</u>	<u>71,873</u>

LAC COURTE OREILLES BAND OF LAKE SUPERIOR
CHIPPEWA INDIANS OF WISCONSIN

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, residing within the boundaries of the Lac Courte Oreilles Reservation, are organized under a constitution and bylaws approved by the Assistant Secretary of the Interior on November 2, 1966, to promote the general welfare of the members and to secure the advantages of self-government. A five-member Governing Board (tribal council), elected for 4-year terms, directs tribal affairs.

The latest tribal census was made in 1940 and listed the total membership at 1,691. Pending an updating of the 1940 census, now in process, tribal officials estimated that total membership had increased to between 2,000 and 3,000 members as of August 1972. A BIA report prepared as of March 1972 showed the total Indian population within and adjacent to the reservation boundaries as 689. The report showed also that the Indian labor force totaled 198, of whom 98 were unemployed.

CHAPTER 2

INFORMATION ON SUBMARGINAL LAND, TRIBAL LAND, AND TRIBAL FINANCIAL RESOURCES

SUBMARGINAL LAND

The 13,185 acres of submarginal land are in 80 separate tracts ranging in size from 40 to 920 acres. Of the 13,185 acres, 10,519 are within the reservation boundaries and 2,666 acres are outside the reservation. The submarginal land is surrounded by tribal, allotted, and privately owned land.

In 1962 we reported that there were 13,225 acres of submarginal land in 82 separate tracts. Our review of BIA records showed an error in the description of one 40-acre tract and an error in the location of another 40 acres, which reduced the submarginal land to 13,185 acres and the number of tracts to 80.

The Government acquired the land in the 1930s under title II of the National Industrial Recovery Act of June 16, 1933 (49 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the act of August 24, 1935 (49 Stat. 750, 781). According to BIA records, the Government paid \$25,598 for the submarginal land.

As of August 1972, BIA classified the submarginal land as follows:

	<u>Acres</u>
Forest	12,480
Swamp or wasteland	200
Lakes and ponds	250
Homesites	160
Other	<u>95</u>
Total	<u>13,185</u>

In January 1971, the agency office reported that the average value of the submarginal land was about \$112 an acre. On this basis, the land would have a total value of \$1,476,720.

On the basis of information obtained at the county treasurer's office, we estimated that, if the land had been subject to real estate taxes, the calendar year 1971 taxes would have been about \$6,600.

Improvements

In 1962 we reported that improvements on the submarginal land consisted mainly of 17 houses, some of which were built in the 1938-40 period or earlier. An agency office official told us in August 1972 that seven of these houses either no longer existed or were not fit for occupancy and estimated that the value of each remaining house ranged from \$500 to \$1,000. Also, in 1963 and 1964 BIA spent \$29,850 for timber stand improvement and \$16,700 for timber access roads.

Present use

The submarginal land is used primarily for producing timber under a timber management plan prepared in 1967 and 1968 by BIA officials. BIA supervises timber cutting on the submarginal land in accordance with a sustained-yield plan under which the productive capacity of the land is maintained. The principal marketable types are maple, oak, and aspen.

During the 10-year period ended December 31, 1971, the Government received \$57,439 in timber revenue from the submarginal land. The revenue received during fiscal year 1972 was \$7,821.

According to an agency office official, about 160 acres of submarginal land on which the 10 houses were located were being used as homesites. The official said also that assignments had been made to occupy the houses at the time they were built.

Potential use

An agency office official said that the best use of the submarginal land is for timber production and for recreational purposes, such as cabins on lakeshores, fishing in lakes and streams, and hunting. He said also that none of the land was cleared in a manner suitable for grazing or farming.

The Department of Agriculture's district conservationist said that the timber on the submarginal land is potentially more valuable than the timber on other tribal land because the extent of cutting has not been as great. He said also that there may be valuable gravel deposits in the area. Members of the tribal council said that wild rice and cranberry marshes and areas suitable for resorts are also potential sources of revenue.

Planned use and income derived therefrom

Tribal officials told us that the tribe had not prepared a formal plan for use of the submarginal land because the tribe did not own the land. The officials said, however, that, if title were conveyed to the tribe, they would use the land for timber production, homesites, and recreational purposes. The chairman of the tribal council said that all proposed revenue-producing activities on submarginal land must be Indian owned and must employ only Indians.

An agency office official estimated that timber revenues from the submarginal land during fiscal years 1973 and 1974 would be about \$7,000 a year. If the land is conveyed to the tribe, timber harvesting would continue under BIA management. Timber revenues, less 5 or 10 percent to cover BIA's administrative costs, would accrue to the tribe rather than to the Government. A tribal official said that any revenue from the timber sales would be used to underwrite tribal operating expenses, primarily salaries.

We were unable to determine how much income, if any, the tribe would derive from the other uses that may be made of the submarginal land, such as cultivating the wild rice and cranberry marshes and building resort areas. Tribal

officials said that the tribe plans to finance the development of the submarginal land by obtaining loans and grants from BIA or other Federal agencies.

Water and mineral resources

According to an agency office official, the principal value of water resources on the submarginal land located along lakes and streams is for recreational purposes, such as fishing and resort facilities.

A Geological Survey, Department of the Interior, report dated July 28, 1960, pointed out that the reservation did not contain any known mineral deposits that were prospectively valuable. In August 1972 an area office official said that this was the most current information available on mineral resources on the reservation. He said, however, that sand and gravel deposits, which would be valuable if roads and highways were built in the area, are interspersed on the reservation.

TRIBAL LAND

The Government holds title, in trust for the tribe, to 3,874 acres of tribal land located within the reservation boundaries and to 71 acres outside the reservation. The tribal land within the reservation is in Sawyer County. The 71 acres outside the reservation are in Washburn and Burnett Counties, Wisconsin.

Since 1962 tribal land has increased by 916 acres. According to an agency office official, the increase was a result of (1) tribal purchases of 120 acres, (2) transferring 74 acres of BIA reserve land to the tribe, and (3) recording 722 acres of tribal land which had been erroneously excluded from BIA records.

Agency office officials classified the 3,945 acres of tribal land as follows:

	Acres		Total
	Within reservation	Outside reservation	
Forest	3,611	-	3,611
Agriculture	160	71	231
Homesites	15	-	15
Other	<u>88</u>	<u>-</u>	<u>88</u>
Total	<u>3,874</u>	<u>71</u>	<u>3,945</u>

Since 1962 a number of improvements have been made on tribal land, primarily housing. In 1970, 29 housing units were constructed under the Department of Housing and Urban Development's low-rent public housing program at a cost of \$607,000. Under this program, the Department provides financial assistance to local tribal housing authorities responsible for management and maintenance of the housing units. These are rented to Indian families at rentals based on family size and income. As of August 1972, the 29 units were occupied. The Department of Housing and Urban Development approved a second project in August 1972 for constructing 70 new housing units at a cost of \$1,715,000. Of the 70 units, 15 will be reserved for elderly Indians.

A BIA housing survey completed in June 1971 disclosed that 71 homes on the reservation required renovation. In fiscal year 1972, \$15,900 was obtained from BIA's annual appropriation for housing improvement to renovate four homes. Also, 67 homes are programmed for renovation at an estimated cost of \$199,000.

In 1971 the tribe prepared a reservation development program which listed four projects to be given priority.

- Replacement of obsolete equipment for a cranberry marsh enterprise, planned to be financed with a \$25,000 grant by the Economic Development Administration, Department of Commerce.
- Construction of a multipurpose community center, estimated to cost \$900,000 and planned to be financed with assistance by the Department of Housing and Urban Development.

--Construction of a fish hatchery. A feasibility study was planned to be prepared by the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

--Construction of a marina, estimated to cost \$1.5 million, planned to be financed by the Economic Development Administration.

None of these projects were underway at the time of our review in August 1972.

TRIBAL FINANCIAL RESOURCES

BIA and tribal officials informed us that financial statements for the tribe had not been prepared. These officials, however, furnished us with the following data relative to business and other financial activities affecting the tribe.

Agency office officials were not aware of any appraisal of the value of the tribal land. BIA officials estimated the average value of an acre of submarginal land, in many instances adjacent to tribal land, at \$112. Applying the estimated average value of an acre of submarginal land to the 3,945 acres of tribal land, we estimated the value of the tribal land at about \$441,840, exclusive of improvements.

Tribal officials provided us with financial statements for a cranberry marsh enterprise owned by the tribe. The statements, which we did not verify, showed that, as of March 31, 1972, the assets of the cranberry enterprise were about \$85,000 and the liabilities were about \$23,000. The statements showed also that, during the fiscal year ended March 31, 1972, the enterprise incurred losses of about \$8,000. The losses were due primarily to the use of obsolete equipment.

A lumber company producing wooden pallets and a novelty woodworking shop, both non-Indian-owned, are on tribal land. The tribe receives rental income of about \$1,100 per year from the two businesses.

During the 10-year period ended December 31, 1971, the tribe received \$6,235 in timber revenue from the tribal land.

In August 1921, the Federal Power Commission issued a license, pursuant to the Federal Power Act of June 10, 1920 (41 Stat. 1063), to a local power company for the use of 525 acres of tribal land. The 525 acres are part of a 17,000-acre project under which the waters of the Chippewa River are stored for low-flow augmentation for six downstream powerplants and for flood control. The tribe receives rental income of \$1,389 a year for use of these lands. The tribe, however, is opposed to this continued use

of the tribal land and has petitioned the Federal Power Commission to refrain from reissuing the license for the use of the land.

In May 1972 the Indian Claims Commission awarded a judgment of \$529,000 to the Chippewa Indians of the Mississippi and Lake Superior tribes. The award was for additional consideration for land ceded by the tribes to the Government under the treaty of August 2, 1847 (9 Stat. 904). Because of the small amount of the award and the large number of tribal members expected to share the award on a per capita basis, the Commissioner of Indian Affairs has delayed distribution of the award until anticipated larger awards are made for three claims pending before the Indian Claims Commission.

Two of the pending claims were filed by the Chippewa Indians of the Mississippi and Lake Superior tribes and involve final settlement for about 13.7 million acres of land ceded to the Government by the treaty of 1837 (7 Stat. 536) and for about 10.5 million acres ceded by the treaty of 1842 (7 Stat. 591). The third pending claim was filed by the Chippewa Indians of Lake Superior and involves final settlement for about 5.9 million acres of land ceded by the treaty of 1854 (10 Stat. 1109). As of November 1972 the claims were still pending before the Indian Claims Commission.

SUMMARY

Tribal officials told us that if title to the submarginal land were conveyed to the tribe, the tribe would use the land for timber production, homesites, and recreational purposes. The revenues from timber sales, which presently accrue to the Government, would accrue to the tribe, except for the portion BIA would charge to cover its administrative costs.

A BIA official estimated that timber revenues from the submarginal land during fiscal years 1973 and 1974 would be about \$7,000 a year. A tribal official said that the tribe would use the income to underwrite tribal operating expenses, primarily salaries.

Consequently we believe that the conveyance of the submarginal land to the tribe could contribute to its social and economic advancement.

HENRY M. JACKSON, WASH., CHAIRMAN
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United States Senate

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
WASHINGTON, D.C. 20510

July 31, 1972

The Honorable Elmer B. Staats
Comptroller General of the United States
Washington, D. C.

Dear Elmer:

This letter is in reference to my letter dated April 1, 1971, in which I requested your staff to begin updating the Comptroller General's Report on Submarginal Land which was submitted to the House and Senate Committees on Interior and Insular Affairs on August 13, 1962.

It has recently been brought to my attention that the Department of the Interior is making a study of instances in which a tribe or group of Indians seeks to acquire land and, as a result of this study, does not intend to submit any further proposed legislation and related comments on the proposed transfer of submarginal lands to Indian tribes and groups until the study is completed.

Previous agreements provided for your staff to initiate the updating of factual data in your 1962 report at the time the Department prepared a draft of proposed legislation providing for the transfer of submarginal land to an Indian tribe or group. Under these arrangements, reports were issued on four Indian tribes or groups and I understand that reports are currently in process on five additional tribes or groups.

APPENDIX I

The Honorable Elmer B. Staats
Page 2
July 31, 1972

Because the Department apparently does not plan to submit any further proposed legislation providing for the transfer of submarginal lands to Indian tribes and groups until after its study is completed, please consider this letter an official request to have your staff begin updating the factual data in the 1962 report regarding the remaining nine Indian tribes or groups and to furnish individual reports thereon as soon as each is completed.

I would like for your reports to include comments on how the conveyance of the lands in question to Indian tribes can contribute to their social and economic advancement.

Your assistance is appreciated.

Sincerely yours,



Henry M. Jackson
Chairman

HMJ:fge