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

**Information On Federally Owned
Submarginal Land Within Or Near The
Fort Belknap Reservation In Montana**

B-147652 B-147655

Bureau of Indian Affairs
Department of the Interior

74448-094011

**BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**

OCT. 12, 1972



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON DC 20548

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Dear Mr Chairman

In accordance with your request of July 31, 1972, this is our report containing information on federally owned submarginal land ^W within or near the Fort Belknap Reservation in Montana. This report updates a section (pp 70 to 74) 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 plan no further distribution of this report unless copies are specifically requested and then only after your agreement has been obtained or you have publicly announced the contents of the report

Sincerely yours,

Comptroller General
of the United States

cltR

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

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ABBREVIATIONS

| | |
|-----|---------------------------|
| BIA | Bureau of Indian Affairs |
| GAO | General Accounting Office |

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 70 to 74 of our August 1962 report on submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior.¹ That report was submitted to the House and Senate Committees on Interior and Insular Affairs. The Chairman also requested our comments on how conveyance of the submarginal land could contribute to the social and economic advancement of the Indian tribes.

This report pertains to the 25,530 acres of submarginal land within or near the Fort Belknap Reservation in Montana, which is inhabited by the Fort Belknap Indian Community.

We reviewed pertinent records and interviewed officials and representatives of BIA's central office in Washington, D.C., area office in Billings, Montana; Fort Belknap agency office in Harlem, Montana; and of the community. We also interviewed representatives of the Agricultural Stabilization and Conservation Service and Soil Conservation Service, Department of Agriculture, and of the Geological Survey and Bureau of Land Management, Department of the Interior. We obtained land appraisal and real estate tax information from officials of Blaine and Phillips Counties.

FORT BELKNAP INDIAN RESERVATION

The Fort Belknap Reservation, located in Blaine and Phillips Counties in north central Montana, was established by the act of May 1, 1888 (25 Stat. 113). The act of June 10, 1896 (29 Stat. 321), reduced the reservation to its present boundaries and size of 622,917 acres. The

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).

reservation is bounded on the north by the Milk River and on the south by the foothills of the Little Rocky Mountains.

As of March 1972 ownership of the land within the reservation boundaries and of certain land outside the reservation was as follows.

| | <u>Acres</u> | | <u>Total</u> |
|--|--|---|----------------|
| | <u>Within reser- vation boundaries</u> | <u>Outside reser- vation boundaries</u> | |
| Indian land. | | | |
| Alotted by the commu- nity to individual Indians | 420,740 | - | 420,740 |
| Community (title held by the Government in trust for the com- munity) | <u>167,824</u> | <u>3,793</u> | <u>171,617</u> |
| | 588,564 | 3,793 | 592,357 |
| Other land. | | | |
| Submarginal, Government-owned | 592 | 24,938 | 25,530 |
| Fort Belknap agency office--BIA adminis- trative reserve | 62 | - | 62 |
| Bureau of Reclamation, Government-owned | 2,587 | - | 2,587 |
| Private ownership (fee title) | 11,450 | - | 11,450 |
| State school land | 19,657 | - | 19,657 |
| All other ownerships | <u>5</u> | <u>-</u> | <u>5</u> |
| Total | <u>622,917</u> | <u>28,731</u> | <u>651,648</u> |

FORT BELKNAP INDIAN COMMUNITY

The Assiniboine and Gros Ventre Tribes comprise the Fort Belknap Indian Community. Under authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the

tribes adopted their constitution and bylaws by referendum on October 19, 1935, and adopted their corporate charter on August 25, 1937, under the name "Fort Belknap Indian Community" of the Fort Belknap Indian Reservation.

In March 1972 an official of BIA's Fort Belknap agency office estimated that the total membership of the community was 4,091. A report prepared by the agency office on the basis of March 1971 labor force data showed that 1,386 Indians lived on the reservation and 392 lived near it. The report also showed that the Indian labor force totaled 626, of whom 350 were unemployed.

CHAPTER 2

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

SUBMARGINAL LAND

The 25,530 acres of submarginal land are in 15 scattered tracts in Blaine County. Four tracts (592 acres) are within the reservation boundaries and 11 tracts (24,938 acres) are outside the boundaries. The submarginal land is surrounded by community land, land allotted to individual Indians by the community, federally owned public land, State land, and privately owned land.

The Government purchased the submarginal land under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of the act of August 24, 1935 (49 Stat. 750, 781). BIA records show that the Government paid \$89,936 for the land.

BIA Fort Belknap agency office officials estimated that, on the basis of land sales in the area, the submarginal land was worth about \$587,000 in December 1970. In March 1972 the Blaine County appraiser told us that, although he did not know the exact value of the land, he believed it was worth more than \$587,000.

On the basis of information obtained from the Blaine County assessor, we estimated that, if the submarginal land were subject to real estate taxes, the calendar year 1971 taxes would have been about \$6,400.

Improvements

In 1962 we reported that the improvements on the submarginal land consisted of stockwater dams and fencing. An official of BIA's Fort Belknap agency office told us in March 1972 that no improvements had been made on the submarginal land since 1962. He stated also that no records had been kept on improvements and that he did not know whether the stockwater dams and fencing still existed. He

explained that the community was not willing to make improvements until it obtained title to the land.

Present and past uses

The community has free use of 25,490 acres of submarginal land under a revocable permit issued by BIA on December 18, 1968, for the period January 1, 1969, through December 31, 1973. The permit excludes 40 acres of submarginal land in an irrigation district on the reservation which BIA leased to an individual. The permit states that all timber, water rights, mineral rights, and the right to grant easements are reserved to the Government. It allows subpermitting but prohibits the growing of price-supported crops which are in surplus supply.

BIA permits issued for various periods through October 1964 required the community to pay annual rent for use of the land. In October 1964 the Acting Secretary of the Interior, in a memorandum to the Commissioner of Indian Affairs, directed that no further charges be made under permits issued to Indian tribes for use of such lands. At the time, the Government had collected about \$41,000 in rent.

As of March 1972 the community was subpermitting the submarginal land as follows.

| | <u>On reservation</u> | | <u>Off reservation</u> | |
|------------|--------------------------------|--------------|--------------------------------|---------------|
| | <u>Number of subpermittees</u> | <u>Acres</u> | <u>Number of subpermittees</u> | <u>Acres</u> |
| Indian | 3 | 552 | 3 | 15,320 |
| Non-Indian | <u>-</u> | <u>-</u> | <u>6</u> | <u>9,618</u> |
| Total | <u>3</u> | <u>552</u> | <u>9</u> | <u>24,938</u> |

Subpermittees have used the submarginal land for grazing, and, during the 5-year period ending June 30, 1971, paid the community rent of about \$62,300. An official of BIA's Fort Belknap agency office told us that the community used these revenues to help finance its budget. During the same 5-year period, the Government received about \$33,900 from oil and gas leases on the submarginal land. As required by the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), the funds have been deposited in the Treasury

until the Congress decides on their disposition. In March 1972 an official of BIA's Fort Belknap agency office told us that oil and gas had not been discovered on the submarginal land.

A Department of Agriculture Soil Conservation Service scientist estimated that 42 percent of the submarginal land outside the reservation was cultivable and that it was best suited for grazing and growing wheat and barley.

Planned uses

The president of the community council told us that, if the submarginal land were conveyed to the community, the community would attempt to trade it for State land on the reservation, which would then be used to establish Indians in farming or ranching operations. He told us also that the community was very interested in obtaining the land but that the community council had not recently made any such resolutions to this effect, nor had it developed a plan for use of the land.

An official of BIA's Fort Belknap agency office told us that the community council and agency office officials had discussed the possibility of consolidating the submarginal land into one tract adjacent to the reservation by trading land with the Bureau of Land Management, the State, and private owners. He said, however, that no formal plan had been developed for such an exchange.

Water resources

There are no major rivers or other bodies of water on or adjoining the submarginal land. In 1962 we reported that the water rights on the submarginal land were of no significant value.

Mineral resources

The Bureau of Mines surveyed the reservation area and in August 1964 reported the possibility of oil and gas resources. BIA also surveyed the area and reported in February 1972 that there was a producing oil and gas field to the west of the reservation and the submarginal lands. A U.S. Geological Survey official told us that the submarginal land outside and to the west of the reservation had the same geologic formation as the oil- and gas-producing field.

An official of BIA's Fort Belknap agency office told us that, because the submarginal land outside the reservation was closer to a producing oil and gas field, the submarginal land could be more valuable than the reservation land.

COMMUNITY LAND

Community lands are located in scattered tracts inside and outside the reservation boundaries. The lands are surrounded by individual Indian-allotted land, State land, land administered by the Bureau of Land Management, privately owned land, and submarginal land. An official of BIA's Fort Belknap agency office told us that the community land was used during 1971 as follows.

| <u>Use</u> | <u>Acres</u> |
|------------|----------------|
| Grazing | 158,911 |
| Forest | 10,506 |
| Other | <u>2,200</u> |
| Total | <u>171,617</u> |

On the basis of BIA's records, we estimate that, during the 3-year period ended June 30, 1971, the community received about \$454,000, primarily from mineral and agricultural (farming and grazing) leases. An official of BIA's Fort Belknap agency office told us that the community deposited about \$161,204 of this amount in its land enterprise fund-- a fund used for purchasing land.

In 1968 the community received Federal grants of \$511,040 from the Economic Development Administration, Department of Commerce, and from the former Federal Water Pollution Control Administration, Department of the Interior. Also, in 1971 the community borrowed \$127,760 from the Economic Development Administration. The community invested these funds in the Fort Belknap Industrial Park, located on community land, to finance airstrip, street, sewer, and water system improvements and to grade for industrial building sites. An official of BIA's Fort Belknap agency office told us that the community's plan is to attract industry to the reservation to provide jobs for the Indian people.

In April 1970, the community borrowed \$350,000 from a bank to construct a building on the industrial park site and to invest, as sole stockholders, in Fort Belknap Builders, Inc., a house manufacturing and construction company. The company initially employed about 50 Indians.

Financial statements prepared by a public accounting firm for the company without audit showed a loss of about \$417,000 for the year ended June 30, 1971. On November 15, 1971, an official of BIA's agency office indicated that there had been grave questions concerning the financial condition and management of Fort Belknap Builders, Inc. He stated, however, that frugal management and close supervision of the operation could salvage the business. In March 1972, an official of BIA's Billings area office said that the business was operational but was not producing revenue. Also, as of the same date, employment was being provided for 24 Indians.

The community has set up a Fort Belknap housing authority, financed by the Department of Housing and Urban Development, to improve housing on the reservation.

There are six irrigation projects serving 17,895 acres of reservation land. During 1971 the Indians used 94 percent of the irrigated land and 168 Indians were employed either full or part time in irrigated farming operations.

The community plans to develop a business complex and recreation sites on the reservation--projects which would provide 137 jobs for Indians. The community's recreation plans provide for the Government to transfer the Little Rocky Mountains to the community without charge. If this transfer is made, title to the lands would be held in trust for the community's benefit. The Indians sold the Little Rocky Mountains to the Government pursuant to the act of June 10, 1896.

COMMUNITY FINANCIAL RESOURCES

The following table, based on a statement furnished to us by BIA's Fort Belknap agency office which we did not verify, shows the financial condition of the community as of June 30, 1971.

| | |
|--|--------------------|
| Assets. | |
| Cash (note a) | \$ 219,668 |
| Receivables | 793,764 |
| Equipment | 29,930 |
| Buildings | 48,465 |
| Land | 2,241,282 |
| Investment in Fort Belknap Builders, Inc. | 509,804 |
| Investment in Fort Belknap Industrial Park (note b) | <u>127,760</u> |
| Total | 3,970,673 |
| Liabilities | <u>1,483,977</u> |
| Equity | <u>\$2,486,696</u> |

^aThe cash balance does not include \$11,858, representing collections by BIA and interest thereon, deposited in the U.S. Treasury for the community.

^bA grant of \$511,040 from the Economic Development Administration was not included in the industrial park account.

Four claims had been filed with the Indian Claims Commission. Two of these claims have been settled and the Congress has appropriated funds for payment. The other two claims are still pending. The settled claims were filed by the Gros Ventre Tribe and the Assiniboine Tribe against the Government for additional compensation for land sold to the Government under the act of May 1, 1888, for which the tribes claim they were not fairly compensated. The tribes are to be compensated as follows.

| <u>Tribe</u> | <u>Claim</u> | <u>Appropriation</u> |
|--------------|--------------|--|
| Gros Ventre | \$2,326,190 | Public Law 90-608, Oct. 21, 1968 (82 Stat. 1198) |
| Assiniboine | 1,554,253 | Act of January 8, 1971 (84 Stat. 1981) |

After the Gros Ventre Tribe receives its claim proceeds, it plans to make a full per capita distribution to tribal members of at least \$2.1 million, if that much is available after deducting lawyers' fees. The tribe plans to use the interest, which accrues from the date of the appropriation to the date the money is disbursed, for education grants, planning and developing business enterprises, and establishing a reserve fund to help finance needed facilities for its members.

House bill 10394 and Senate bill 3230 provide that \$100,000 of the Assiniboine Tribe's claim be set aside for reservation programs with the balance to be distributed on a per capita basis to duly enrolled members of the tribe. The Senate passed Senate bill 3230 on May 24, 1972, and the House passed House bill 10394 on June 5, 1972. As of August 1972, the Senate bill was in conference.

The community and the Gros Ventre Tribe have each filed claims with the Indian Claims Commission which are still pending. These claims are for a proper accounting by the Government for all property or funds received and expended on behalf of the community and the tribe. No specific amounts have been established for these claims.

SUMMARY

The community has not developed a plan for use of the submarginal land. The president of the community council told us that, if the land were conveyed to the community, the community would attempt to trade it for State land on the reservation, which would then be used to establish Indians in farming or ranching operations. We believe that such use of the land could contribute to the social and economic advancement of the community.

HENRY M JACKSON WASH CHAIRMAN
 CLINTON P ANDERSON N MEX GORDON ALLOTT COLO
 ALAN BIBLE, NEV LEN B JORDAN IDAHO
 FRANK CHURCH IDAHO PAUL J FANNIN ARIZ
 FRANK E MOSS UTAH CLIFFORD P HANSEN WYO
 QUENTIN N BURDICK N DAK MARK O HATFIELD OREG.
 GEORGE MC GOVERN S DAK HENRY BELLMON OKLA
 LEE METCALF MONT JAMES L. BUCKLEY N Y
 MIKE GRAVEL, ALASKA

JERRY T VERKLER STAFF DIRECTOR

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

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