

RELEASED

43-0184
3.09.15



RESTRICTED — Not to be released outside the General Accounting Office except on the basis of specific approval by the Office of Congressional Relations, a record of which is kept by the Distribution Section, Publications Branch, GAO

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

Information On Federally Owned
Submarginal Land Within The
Standing Rock Reservation In
North Dakota and South Dakota

B-147652, B-147655

Bureau of Indian Affairs
Department of the Interior

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

904587
089179

FEB. 13, 1973



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

B-147652
B-147655

Dear Mr. Chairman:

In accordance with your request of July 31, 1972, this is our report containing information on federally owned submarginal land on the Standing Rock Reservation in North Dakota and South Dakota. This report updates a section (pp. 131 to 136) 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 you publicly announce its contents.

Sincerely yours,

James B. Axtell

Comptroller General
of the United States

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

501900

C o n t e n t s

	<u>Page</u>	
DIGEST	1	
CHAPTER		
1	INTRODUCTION	5
	Standing Rock Reservation	5
	Standing Rock Sioux Tribe	6
2	INFORMATION ON SUBMARGINAL LAND, TRIBAL LAND, AND TRIBAL FINANCIAL RESOURCES	8
	Submarginal land	8
	Improvements	8
	Present uses	9
	Planned uses	10
	Water resources	10
	Mineral resources	11
	Tribal Land	12
	Tribal financial resources	14
	Summary	14
APPENDIX		
I	Letter dated July 31, 1972, from the Chair- man, 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 THE
STANDING ROCK RESERVATION IN
NORTH DAKOTA AND SOUTH DAKOTA
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 Indian tribes can contribute to their social and economic advancement.

FINDINGS AND CONCLUSIONS

There are 10,256 acres of federally owned submarginal land within the Standing Rock Reservation in North Dakota and South Dakota, which is inhabited by the Standing Rock Sioux Tribe. (See p. 5.)

BIA estimated, in August 1972, that the submarginal land had a total value of about \$308,000, or \$30 an acre. During the 1930s the Government paid about \$43,000 or \$4 an acre, for 10,965 acres of submarginal land. Since that time the Corps of Engineers has acquired

709 acres of the submarginal land for the construction of a reservoir. (See p. 8.)

The only improvements on the submarginal land were three stock-water dams. The total cost of constructing two of the dams was about \$1,200; information on the cost of the third dam was not available. (See p. 8.)

The tribe has free use of the submarginal land under a revocable permit issued by BIA. The permit is for an indefinite period which began on November 1, 1965. It allows subpermitting; prohibits the growing of price-supported crops in surplus supply; and reserves all timber, water, and mineral rights to the Government. (See p. 9.)

Although the present permit allows free use of the submarginal land, BIA permits issued for various periods through October 1964 required the tribe to pay annual rent. Up to that time, the Government had collected about \$13,000 in rent. (See p. 9.)

The submarginal land has been used by subpermittees for grazing. During the 5-year period ended October 31, 1972, the tribe received income of about \$38,000 from subpermits issued

on the submarginal land. These funds were used to help support the tribal budget. (See p. 9.)

As of August 1972, 6,752 acres of submarginal land were subpermitted to Indians and 3,504 acres to non-Indians. Indian use of the submarginal land has increased since 1962 when 4,041 acres were used by Indians. (See p. 9.)

BIA Standing Rock agency office officials told GAO that no determination had been made as to the water rights on the submarginal land. They said that some of the land is adjacent to the Oahe Reservoir and that some contains small streams. The officials said also that none of the submarginal land was under irrigation and that it had not been irrigated for many years. (See p. 10.)

Although a 1963 Bureau of Mines report on the Standing Rock Reservation stated that potential mineral resources included oil, gas, sand, gravel, uranium-bearing lignite, and clay, an agency office official told GAO in August 1972 that there had been no exploration for, or production of, minerals on the submarginal land. (See p. 11.)

The Bureau of Land Management had issued oil and gas leases on 2,701 acres of submarginal land at an annual rate of 50 cents an acre as of August 1972, but no exploration was undertaken by the lessees. Through fiscal year 1972, the revenue from oil and gas leases on the submarginal land amounted to about \$5,500. These funds are deposited in the Treasury until a decision as to their disposition is made by the Congress. (See p. 11.)

In August 1972 the tribe owned 303,502 acres of tribal land, most of

which have been used for grazing. During the 5-year period ended June 30, 1972, the tribe received income of about \$1.3 million from agricultural, business, and mineral leases on tribal land. (See p. 12.)

The tribe has prepared a 30-year development plan which provides for obtaining financial support from various Government agencies. Some of the programs, included in the plan and being implemented as of August 1972, were for construction of a recreational complex and construction of 130 homes on tribal land, as well as acquisition of land. (See pp. 13 and 14.)

The tribes' balance sheet for the year ended June 30, 1971, which GAO did not verify, showed an equity of about \$8.2 million. (See p. 14.)

As of November 1972 the tribe had three claims pending with the Indian Claims Commission. Two of the claims involved several Sioux tribes, including the Standing Rock Sioux, and are for fair payment of land ceded to the Government in 1868 and 1876. The other claim is a request for a proper accounting by the Government of all property or funds received and expended on behalf of the tribe. No specific amounts were established for these claims. (See p. 14.)

The tribal council told GAO that no formal plan had been prepared identifying proposed uses of the submarginal land but that, if it were transferred to the tribe, it would continue to be included in range units and used for grazing purposes. Agency office officials told GAO that the submarginal land is best suited for grazing. (See p. 10.)

The tribal council said that its highest priority projects, consolidation and development of tribal land, would be enhanced if the submarginal land were conveyed to the tribe since all the submarginal land is within a planned tribal consolidation area. (See p. 10.)

The tribal council said also that, if the land were transferred to the tribe, they could improve utilization of both the submarginal and tribal land by making any necessary improvements and by acquiring adjacent lands to establish more contiguous land units which could be operated more economically. (See p. 15.)

An area office official told GAO that improvements, such as stock-water dams, land leveling, fencing,

and well-irrigation systems, could be made on the submarginal land and that, by establishing more contiguous land units, the land would be more valuable for rental purposes. (See p. 15.)

In the past the tribe has been reluctant to make improvements on submarginal land and to purchase lands adjacent to submarginal land because the improvements would be lost and the purchased lands would be isolated or not economically usable if the land-use permit issued by BIA were canceled. (See p. 10.)

GAO believes that transfer of the land to the tribe could contribute to its social and economic advancement. (See p. 15.)

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 131 to 136 of our August 1962 report on submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior.¹ The Chairman also requested our comments on how conveyance of the submarginal land to the Indian tribes can contribute to their social and economic advancement.

This report pertains to the 10,256 acres of federally owned submarginal land within the Standing Rock Reservation in North Dakota and South Dakota, which is inhabited by the Standing Rock Sioux Tribe.

We reviewed records and interviewed officials of the BIA's central office in Washington, D.C.; area office in Aberdeen, South Dakota; and Standing Rock agency office in Fort Yates, North Dakota. We interviewed tribal officials and representatives of the Forest Service, Department of Agriculture. We obtained land appraisal, real estate tax, and land ownership information from officials of Sioux County, North Dakota, and Corson County, South Dakota.

STANDING ROCK RESERVATION

The Fort Laramie Treaty of April 29, 1868 (15 Stat. 635), created the Great Sioux Reservation, which included nearly all of the Dakota territory west of the Missouri River. The acts of April 30, 1888 (25 Stat. 94), and March 2, 1889 (25 Stat. 888), subdivided the Great Sioux

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.

Reservation into six separate reservations, including the Standing Rock Reservation.

The Standing Rock Reservation is located in Sioux and Adams Counties in North Dakota and in Corson, Dewey, and Ziebach Counties in South Dakota. The reservation boundaries are the Oahe Reservoir to the east; the Cannonball River and Cedar Creek to the north; the Cheyenne River Indian Reservation to the south; and the 102^o meridian to the west.

In August 1972 BIA, county, and Department of Agriculture officials furnished the following information on ownership of the land within the reservation boundaries.

	<u>Acres</u>
Indian land:	
Allotted by the tribe to individual Indians	530,938
Tribal (title held by the Government in trust for the tribe)	<u>303,502</u>
	<u>834,440</u>
Other land:	
Submarginal land, Government-owned	10,256
Department of Agriculture, Government-owned	37,556
Corps of Engineers, Government-owned	65,754
State and local government-owned	78,886
All other ownerships	<u>1,305,591</u>
	<u>1,498,043</u>
Total	<u>2,332,483</u>

STANDING ROCK SIOUX TRIBE

The governing body of the tribe is the Standing Rock Tribal Council. The council consists of a chairman, elected at large, and two elected councilmen from each of the seven reservation districts. It governs under a constitution approved by the Assistant Secretary of the Interior on April 24, 1959.

BIA records show that there were 7,885 tribal members as of March 1972. BIA reported, in March 1972, that 4,470 Indians lived on the reservation and 220 lived near the reservation. Among these 4,690 Indians, there is a potential labor force of 1,159. BIA reported that 399, or 34 percent of the labor force, were unemployed. Agency office personnel said that 387 employable Indians received welfare payments during the year ended March 29, 1972.

A BIA report dated March 1971 showed that per capita personal income of Indians living on or near the reservation amounted to \$962 in 1970.

CHAPTER 2

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

SUBMARGINAL LAND

The 10,256 acres of submarginal land are in 37 scattered tracts in Sioux County, North Dakota, and Corson County, South Dakota. All the submarginal land is located within the reservation boundaries and is surrounded by tribal land, allotted land, State and county land, federally owned land, and privately owned land.

During the 1930s the Government purchased 10,965 acres of 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). Area office records showed that the Government paid \$42,992, or about \$4 an acre, for the land.

The 10,256 acres of submarginal land are less than the amount shown in our 1962 report because 709 acres were taken in the interim by the Corps of Engineers for the Oahe Reservoir. Area office personnel estimated in August 1972 that the total value of the 10,256 acres of submarginal land was \$307,667, or about \$30 an acre.

Based on information obtained from Sioux and Corson County officials, the estimated calendar year 1972 real estate taxes on this land, if it were subject to taxes, would be about \$4,600.

Improvements

There were no significant improvements on the submarginal land. Agency office personnel told us that the house and granary referred to in our 1962 report were on the land when it was acquired by the Government and are in such dilapidated condition that they should not be considered improvements. Agency office personnel identified three stock-water

dams from air photographs of the submarginal land, two of which had been constructed at a cost of about \$1,200. No information was available on the cost of the third dam.

Present uses

Since October 1964 the tribe has had free use of 10,256 acres of submarginal land under revocable permits issued by BIA. The present permit was issued by BIA on September 29, 1965, for an indefinite period which began on November 1, 1965. The permit states that all timber, water, and mineral rights and the right to grant easements are reserved to the Government. It allows subpermitting but prohibits the growing of price-supported crops in surplus supply.

BIA permits issued for various periods through October 1964 required the tribe to pay annual rent for use of the submarginal land. In October 1964 the Acting Secretary of the Interior directed that charges to Indian tribes for use of submarginal land be discontinued. According to a report prepared by a consultant for the National Council on Indian Opportunity, the Government had collected about \$13,000 in rent up to that time.

The submarginal land is included with tribal and allotted lands in range units which are used for grazing purposes. As of August 1972 the tribe was subpermitting the land as follows:

	<u>Number of subpermittees</u>	<u>Acres</u>	<u>Annual fee</u>
Indian	23	6,752	\$5,594
Non-Indian	<u>9</u>	<u>3,504</u>	<u>3,102</u>
Total	<u>32</u>	<u>10,256</u>	<u>\$8,696</u>

Indian use of the submarginal land had increased since 1962, when 4,041 acres were used by Indians.

During the 5-year period ended October 31, 1972, the tribe received income of about \$38,000 from subpermits issued on the submarginal land. Agency office personnel advised us that this revenue was used to help finance the tribal budget.

Planned uses

The tribal council told us that no formal plan had been prepared identifying proposed uses of the submarginal land but that, if it were transferred to the tribe, it would continue to be included in range units and used for grazing purposes. Agency office officials said that the submarginal land is best suited for grazing. The tribal council said that its highest priority projects, consolidation and development of tribal land, would be enhanced if the submarginal land were conveyed to the tribe since all the submarginal land is within a planned tribal consolidation area. In the past the tribe has been reluctant to

- make improvements on submarginal land because they would be lost if the land-use permit issued by BIA were canceled and
- purchase lands adjacent to submarginal land because purchased tracts would be isolated or not economically usable if the submarginal land were taken from the tribe.

The council said that, if the land were transferred to the tribe, they could improve utilization of both the submarginal and tribal land by making any necessary improvements and by acquiring adjacent lands to establish more contiguous land units which could be operated more economically.

An area office official told us that improvements, such as stock-water dams, land leveling, fencing, and well-irrigation systems, could be made on the submarginal land and that the land would be more valuable for rental purposes by establishing more contiguous land units.

A February 1972 BIA report estimated that a 25-percent increase in livestock production could be attained from a range development program using fencing and water development, which illustrates the potential benefit of the tribe's consolidation and development projects.

Water resources

Agency office officials told us that no determination had been made as to the water rights on the submarginal land.

They said that some of the land is adjacent to the Oahe Reservoir and that some contains small streams. The officials said also that none of the submarginal land was under irrigation and that it had not been irrigated for many years.

Mineral resources

Although a 1963 Bureau of Mines report on the Standing Rock Reservation stated that potential mineral resources included oil, gas, sand, gravel, uranium-bearing lignite, and clay, an agency office official told us in August 1972 that there had been no exploration for, or production of, minerals on the submarginal land.

The Bureau of Land Management had issued oil and gas leases on 2,701 acres of submarginal land at an annual rate of 50 cents an acre as of August 1972, but no exploration was undertaken by the lessees. BIA's records showed that, through fiscal year 1972, the revenue from oil and gas leases on the submarginal land amounted to \$5,454. These funds are deposited in the Treasury until a decision as to their disposition is made by the Congress pursuant to the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355).

TRIBAL LAND

Tribal lands are located in scattered tracts throughout the reservation. The lands are surrounded by allotted land, State and county land, Government-owned land, privately owned land, and submarginal land. BIA's records for the year ended December 31, 1971, showed the following uses of tribal land:

<u>Use</u>	<u>Acreage</u>			
	<u>Used by Indians</u>	<u>Used by non-Indians</u>	<u>Idle</u>	<u>Total</u>
Open grazing	141,244	151,285	380	292,909
Dry farming	3,057	5,640	25	8,722
Irrigated farming	300	-	-	300
Other	<u>2,492</u>	<u>770</u>	<u>-</u>	<u>3,262</u>
Total	<u>147,093</u>	<u>157,695</u>	<u>405</u>	<u>305,193</u> ^a

^aThe tribe buys and sells land on a continuing basis, and as of August 1972, there were 303,502 acres of tribal land.

During the 5-year period ended June 30, 1972, the tribe received income of about \$1.3 million from agricultural, business, and mineral leases on tribal lands. The income from these leases amounted to \$265,705 in fiscal year 1972 and came from the following sources:

<u>Source</u>	<u>Amount</u>
Range unit permits	\$199,212
Agricultural leases	52,277
Oil leases	6,031
Business leases	4,793
Sand and gravel	3,382
Other	<u>10</u>
Total	<u>\$265,705</u>

The tribe has prepared a 30-year development plan which provides for obtaining financial support from various Government agencies. The plan is divided into three categories.

1. The Physical Plan--includes such programs as land consolidation and acquisition, land development, roads, tourism and recreation, and housing.
2. The Economic Plan--includes programs which, because of the criticalness of the economic situation throughout the reservation, will have an immediate impact, such as manpower development, cattle co-operatives, and industrial development.
3. The Social Plan--includes programs such as educational development, health, and welfare.

The following programs, included in the plan, were being implemented as of August 1972.

The tribe received a \$1.3 million grant from the Economic Development Administration, Department of Commerce, to construct the Grand Peninsula Recreation Complex on tribal land. This complex is to consist of a 46-unit motel, restaurant, bar, swimming pool, golf course, and other facilities and is expected to create jobs for about 116 persons. The complex was under construction as of August 1972.

Under a contract with the Department of Housing and Urban Development, a tribal corporation plans to construct 130 homes on tribal land. As of August 1972, 80 Indians were working on this project and 15 homes had been completed.

Other active projects included:

- A tribal farm which had been established as a demonstration project to show that some of the tribal lands are irrigable and that benefits could be achieved by feeding livestock alfalfa rather than range grass.
- Miscellaneous small business operations which had been established on the reservation--a grocery store, laundry, bulk propane plant, and grain trucking operation.

--A land acquisition program, financed with a loan of \$750,000 from the Farmers Home Administration, Department of Agriculture, to acquire allotted land from individual Indians. The purpose of the program is to prevent the sale of the land to non-Indians and to increase tribal holdings in the consolidation area. As of August 1972 all the funds were committed for the purchase of land.

TRIBAL FINANCIAL RESOURCES

The following table, based on a balance sheet which was furnished to us by the tribal finance officer and which we did not verify, shows the financial condition of the tribe as of June 30, 1971.

Assets:	
Cash	\$ 730,823
Receivables	823,651
Equipment	84,380
Buildings	127,163
Land	<u>7,222,279</u>
Total	8,988,296
Long-term liabilities	<u>792,000</u>
Equity	<u>\$8,196,296</u>

As of November 1972 the tribe had three claims pending with the Indian Claims Commission. Two of the claims involve several Sioux tribes, including the Standing Rock Sioux, and are for fair payment of land ceded to the Government in 1868 and 1876. The other claim is a request for a proper accounting by the Government of all property or funds received and expended on behalf of the tribe. No specific amounts were established for these claims.

SUMMARY

The tribal council told us that no formal plan had been prepared identifying proposed uses of the submarginal land, if it were transferred to the tribe, but that it would continue to be included in range units and used for grazing

purposes. Agency office officials told us that the submarginal land is best suited for grazing. The tribal council said that their highest priority projects, consolidation and development of tribal land, would be enhanced if the submarginal land were conveyed to the tribe because all the submarginal land is within a planned tribal consolidation area.

The tribal council said that, if the land were transferred to the tribe, they could improve utilization of both the submarginal and tribal land by making any necessary improvements and by acquiring adjacent lands to establish more contiguous land units which could be operated more economically. An area office official told us that improvements, such as stock-water dams, land leveling, fencing, and well-irrigation systems, could be made on the submarginal land and that, by establishing more contiguous land units, the land would be more valuable for rental purposes. In the past the tribe was reluctant to make improvements or to purchase land adjacent to submarginal land because the improvements would be lost or purchased land would be isolated or not economically usable if the land-use permit issued by BIA were canceled.

We believe that transfer of the land to the tribe could contribute to its social and economic advancement.

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

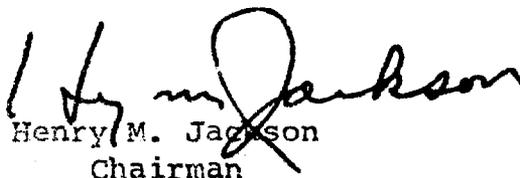
July 31, 1972

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

HMJ: fge