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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 And Adjacent
To The Crow Creek Reservation
In South Dakota** 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

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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 within and adjacent to the Crow Creek Reservation in South Dakota. This report updates a section (pp. 65 to 69) 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,

Comptroller General
of the United States

CIFR

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

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

INFORMATION ON FEDERALLY OWNED
SUBMARGINAL LAND WITHIN AND
ADJACENT TO THE CROW CREEK
RESERVATION IN 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 19,170 acres of federally owned submarginal land within and adjacent to the Crow Creek Reservation in South Dakota, which is inhabited by the Crow Creek Sioux Tribe. (See p. 5.)

BIA estimated, in January 1971, that the average value of the submarginal land was about \$45 an acre, or a total value of about \$863,000. BIA records showed that, during the 1930s, the Government paid about \$82,000 for 20,442 acres of submarginal land. Since that time the Corps of Engineers has taken 1,272 acres of the submarginal land for two reservoir projects. (See p. 8.)

A BIA official told GAO that the improvements existing on the submarginal land in 1962, primarily fencing and stock tanks, would have little or no value today. Additional improvements built in 1964 were five stock-water dams and one artesian well; their costs of \$9,500 were financed on a matching basis by the tribe and the Department of Agriculture. (See p. 8.) *42*

The tribe has free use of the submarginal land under a revocable permit issued by BIA. The current permit, effective November 1, 1964, is for an indefinite period. It allows subpermitting, prohibits the growing of price-supported crops in surplus supply, and reserves all timber, water rights, and mineral rights for 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 \$30,000 in rent. (See p. 9.)

The submarginal land has been used by subpermittees primarily for grazing, and from 1968 through 1972 the tribe received income of about \$22,000 annually from the subpermits. (See p. 9.)

Water for irrigation on the reservation is available from the

FEB. 15. 1973

reservoir formed in 1963 by the construction of the Big Bend Dam on the Missouri River. A number of tracts of submarginal land are located near the reservoir, and several tracts are potentially usable for irrigation farming. (See p. 11.)

A 1963 report on a study by the Bureau of Mines, Department of the Interior, concluded that metallic manganese deposits were the reservation's most promising future resource but that their extraction was not economically feasible. One of the coauthors of the study report confirmed that this conclusion was still applicable in August 1972. (See pp. 11 and 12.)

The tribe owns 33,039 acres of land within the reservation boundaries which are used by Indians and non-Indians primarily for grazing. On the basis of BIA's records, GAO estimated that during fiscal years 1971 and 1972 rental income received by the tribe from this land averaged about \$28,000 a year. (See p. 13.)

Legislation enacted in 1958 and 1962 authorized the payment of about \$5.9 million to the tribe and its members in full settlement of all claims and rights arising from the Government's taking of land for the construction of two dams. The settlement included about \$4 million of rehabilitation funds for programs that would improve the economic and social conditions of the tribal members. As of June 30, 1972, the tribe had cash deposits of about \$1 million which had not been spent from the funds that were authorized by the Congress. (See p. 13.)

The tribe undertook several industrial development projects which

failed and were discontinued. In 1971 the tribe opened a tourism complex on the reservation, which includes a motel, restaurant, and other facilities. As of June 1971 the complex employed 17 Indians. The Economic Development Administration, Department of Commerce, granted about \$888,000 toward the \$1.1 million cost of this project. (See p. 14.)

The tribe's balance sheet as of June 30, 1971, furnished by the tribe but not verified by GAO, showed a net worth of about \$4.2 million. (See p. 14.)

Tribal income was derived primarily from leases, subpermits, and interest earned on unexpended rehabilitation program funds. During fiscal year 1972 income from these sources amounted to about \$120,000. The tribe applied all income toward its operating budget. These revenues were not sufficient to meet the fiscal year 1972 tribal operating expenses of \$214,000. (See pp. 14 and 15.)

As of November 1972, the tribe had three claims pending with the Indian Claims Commission. Two of the claims, involving the Crow Creek Sioux Tribe and other Sioux tribes, are for fair compensation for land ceded to the Government in 1868 and 1876. The other claim is for a proper accounting by the Government of all funds held and expended on behalf of the tribe. No specific amounts have been established for these claims. (See p. 15.)

The tribal chairman told GAO that, although the tribe had not prepared a plan for use of the submarginal land, its conveyance to the tribe would provide additional land suitable for agricultural development.

He said that those tracts of submarginal land suitable for irrigation would be included in one of the tribal irrigation projects planned for the reservation and that the tribe would exchange isolated tracts of submarginal land for tracts in areas more suitable for development. (See p. 11.)

A BIA official said that conveyance of the submarginal land to the tribe

would be in accordance with the tribe's land-purchasing program to consolidate units of land into parcels large enough to be economically usable. Nearly 78 percent of the submarginal land is within the tribal land consolidation area on the reservation. (See p. 10.)

GAO believes that conveyance of the submarginal 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 65 to 69 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 19,170 acres of federally owned submarginal land within and adjacent to the Crow Creek Reservation in South Dakota, which is inhabited by the Crow Creek Sioux Tribe.

We reviewed records and interviewed officials and representatives of BIA's central office in Washington, D.C.; BIA's area office in Aberdeen, South Dakota; BIA's Crow Creek agency office in Fort Thompson, South Dakota; and the tribe. We interviewed representatives of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service, Department of Agriculture, and the South Dakota School of Mines and Technology. We obtained land appraisal and real estate tax information from officials of Buffalo, Hyde, and Hughes Counties.

CROW CREEK RESERVATION

The Crow Creek Reservation is in Buffalo, Hyde, and Hughes Counties in central South Dakota. The present boundaries of the reservation were established by the act of

¹"Report on Review of Proposed Legislation for Conveyance to Certain Indian Tribes and Groups of Submarginal Land Administered by the 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.

April 30, 1888 (25 Stat. 94), the substance of which was reenacted in the act of March 2, 1889 (25 Stat. 888). The reservation is bounded on the west and south principally by the Missouri River reservoirs that were formed by the construction of the Big Bend and Fort Randall Dams in South Dakota.

As of June 1972 ownership of the land within the reservation boundaries and of certain land outside the reservation was as follows:

	Acres		<u>Total</u>
	<u>Within reservation boundaries</u>	<u>Outside reservation boundaries</u>	
Indian land:			
Allotted by the tribe to individual Indians	69,705	144	69,849
Tribal (title held by the Government in trust for the tribe)	<u>33,039</u>	<u>-</u>	<u>33,039</u>
	<u>102,744</u>	<u>144</u>	<u>102,888</u>
Other land:			
Submarginal, Government-owned	19,040	130	19,170
All other ownerships	<u>161,823</u>	<u>-</u>	<u>161,823</u>
	<u>180,863</u>	<u>130</u>	<u>180,993</u>
Total	<u>283,607</u>	<u>274</u>	<u>283,881</u>

CROW CREEK SIOUX TRIBE

The tribe adopted its constitution and bylaws on March 11, 1949, and the Commissioner of Indian Affairs approved them on April 26, 1949. Under the constitution the tribe established a tribal council of six elected members which is responsible for conducting tribal business.

In August 1972 the tribal chairman estimated that the tribe had 2,000 enrolled members, 1,200 of whom lived on the reservation. BIA's labor force report as of March 1972 showed that, of the enrolled tribal members living on or adjacent to the reservation, 375 were available for the labor force of which 257, or 69 percent, were reported as being unemployed.

CHAPTER 2

INFORMATION ON SUBMARGINAL LAND, TRIBAL LAND,

AND TRIBAL FINANCIAL RESOURCES

SUBMARGINAL LAND

The 19,170 acres of submarginal land are in 85 scattered tracts located in Buffalo, Hyde, and Hughes Counties. All but part of one tract (130 acres) are within the reservation boundaries. The submarginal land is surrounded by various combinations of tribal land, allotted land, and privately owned land.

During the 1930s, the Government purchased 20,442 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). BIA records showed that the Government paid \$81,591 for the land.

The 19,170 acres of submarginal land are less than those acquired because the Corps of Engineers took 1,272 acres for the Big Bend and Fort Randall reservoir projects. In January 1971 agency office officials estimated that the 19,170 acres of submarginal land had an average value of \$45 an acre, or a total value of about \$862,650.

On the basis of information obtained from the three county assessors' offices, we estimated that, if the submarginal land were subject to real estate taxes, the calendar year 1971 taxes would have been \$15,100.

Improvements

In 1962 we reported that the improvements on the submarginal land, primarily fencing and stock tanks, had a total estimated value of \$13,524. In 1964 five stock-water dams were built and one artesian well was developed. These improvements, costing an estimated \$9,500, were financed on a matching basis by the tribe and the Department of

Agriculture. An agency office official told us in August 1972 that the improvements which were in existence in 1962 would have little or no value at the present time.

Present use

Since October 1964 the tribe has had free use of the submarginal land under revocable permits issued by BIA. The present permit, effective November 1, 1964, was issued for an indefinite period and 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 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. According to a report prepared by a consultant for the National Council on Indian Opportunity, the Government had collected about \$30,000 in rent up to that time. In October 1964 the Acting Secretary of the Interior directed that charges to Indian tribes for use of submarginal land be discontinued.

The reservation is located on the eastern end of the large ranching and grazing sections of South Dakota. A large percentage of the reservation is grazing land due to soil type, topography, and precipitation limitations. A BIA land-use report showed that the submarginal land was used as follows during calendar year 1971.

<u>Use</u>	<u>Acres</u>
Open grazing	17,687
Dry farming	1,337
Other	<u>146</u>
Total	<u>19,170</u>

The tribe subpermits substantially all of the submarginal land to both Indian and non-Indian operators. In 1971, 11 Indian subpermittees used 6,427 acres and 37 non-Indian subpermittees used 12,697 acres. BIA officials explained that most of the land was subpermitted to non-Indians

because relatively few Indian cattle ranchers were operating on the reservation. The remaining 46 acres were not sub-permitted during 1971.

During calendar years 1968 through 1972, the tribe earned about \$22,000 annually from subpermits issued on the submarginal land and used the revenues to help meet tribal operating expenses.

Planned use

In commenting on the social and economic benefits that the tribe would derive from the conveyance of the submarginal land to the tribe, an area office official stated:

"The ownership of property is basic to the development of an economic base. *** Without it there is little chance that industries can be established, homes built or any other kind of effort made to correct the deficiencies that exist in the Indian community. In the case of Crow Creek, the Tribe owns very little property. They are dependent on this small acreage for whatever income they currently have to operate the bare necessities of government. The amounts of income are insufficient to finance the business and administrative organizations that the Tribe must have if it is to succeed in developing first, a viable, functional governing body; secondly, plans and programs that are going to be needed to bring economic growth to the Reservation, and third, enable this group of people to restructure their community in such a way that it can overcome the severe social disruptions that exist in it."

In about 1962 the tribe established a land consolidation area on the reservation and a land-purchasing program to consolidate units of land into parcels large enough to be economically usable. Nearly 78 percent of the submarginal land is located within the land consolidation area, and a BIA official said that conveyance of the submarginal land to the tribe would be in accordance with the tribe's land-purchasing program.

The tribal chairman said that the tribe desires to develop the irrigation and dry farming potential of its land holdings. A tribal irrigation project on the reservation was in the planning stage, with cooperative efforts being made by the Department of Agriculture; Department of Labor; and Economic Development Administration, Department of Commerce. To more efficiently develop the agricultural potential that exists, the tribe desires to increase its ownership of lands in areas where irrigation and dry farming are economically feasible. The tribal chairman told us that, although the tribe had not prepared a formal written plan for use of the submarginal land, its conveyance would provide the tribe with additional land suitable for agricultural development. The tribal chairman said that, if the submarginal land were conveyed to the tribe, those tracts suitable for irrigation would be included in one of the tribal irrigation projects planned for the reservation. He also said that the tribe would exchange isolated tracts of submarginal land for tracts of land in areas more suitable for development.

Water resources

Water for irrigation on the reservation is available from the reservoir formed in 1963 by the construction of the Big Bend Dam on the Missouri River. A number of tracts of submarginal land are located near the reservoir, and several are potentially usable for irrigation farming.

Mineral resources

In December 1963 the Bureau of Mines, Department of the Interior, published a report on its study of the mineral resources on the Crow Creek Reservation in which it concluded that:

- Mineral resources had made a negligible contribution to the economy of the reservation and consisted of minor sales of sand and gravel for local road building.
- The 1.7 million tons of metallic manganese deposits were the most promising future resource of the reservation. Although it was technologically possible

to extract the manganese, it was not economically feasible to do so.

--Fuel resources of the reservation were very limited. There were no coal deposits, and the chances of finding oil were almost negligible.

A South Dakota School of Mines and Technology professor who had coauthored the 1963 report told us in August 1972 that its conclusions were still applicable. He said also that he did not foresee the possibility of commercial mining of manganese on the reservation in the next 30 to 50 years. He further said that the results of exploratory drilling for gas and oil in the proximity of the reservation had been discouraging.

TRIBAL LAND

The 33,039 acres of tribal land are located in scattered tracts within the reservation boundaries. The land is surrounded by various combinations of submarginal land, allotted land, and privately owned land. BIA's records showed the following use of tribal land during calendar year 1971.

<u>Use</u>	<u>Acres</u>
Open grazing	30,488
Dry farming	2,078
Irrigation farming	64
Other	<u>409</u>
Total	<u>33,039</u>

The tribe leases the tribal land to both Indians and non-Indians. On the basis of BIA's records, we estimated that during fiscal years 1971 and 1972 rental income received by the tribe from this land averaged about \$28,000 a year. These revenues were applied against tribal operating expenses.

In connection with the construction of the Fort Randall Dam and the Big Bend Dam, which were completed in 1962 and 1963, respectively, the Government had acquired land on the Crow Creek Reservation, including 1,225 acres of tribal land and 14,340 acres of allotted land. In 1958 and 1962 the Congress, under Public Law 85-916 (72 Stat. 1766) and Public Law 87-735 (76 Stat. 704), authorized payment of about \$5.9 million to the tribe and its members in full settlement of all claims and rights arising from the land taking.

The Congress provided, as part of the settlement, about \$4 million in rehabilitation funds for programs that would improve the economic and social conditions of enrolled members of the tribe. Accordingly, the tribe established rehabilitation programs for family improvement, community development, ranching and farming, land purchase, industrial development, and education. BIA records showed that at June 30, 1972, the tribe had cash deposits of about \$1 million which had not been spent from the funds authorized by the Congress for these programs.

The tribe undertook several industrial development projects to raise the economy of the reservation, but these projects failed and were discontinued. The tribal chairman said that the tribe incurred its largest financial losses, about \$250,000, in snowmobile and muffler industrial projects.

A 40-acre tourism complex costing \$1,109,500, built on the reservation, was opened in 1971. It includes a motel, restaurant, and certain other facilities; as of June 1971 it employed 17 Indians. To help finance the project, the Economic Development Administration furnished grants totaling \$887,600 and the tribe provided \$210,900 of its own funds and land valued at \$11,000. The tribal chairman said that it would take several years until the complex could operate on a paying basis.

TRIBAL FINANCIAL RESOURCES

The following table, based on a balance sheet furnished by the tribe but not verified by us, shows the financial condition of the tribe as of June 30, 1971.

Assets:	
Cash (note a)	\$1,429,721
Receivables	369,004
Land	959,890
Buildings and equipment	1,492,626
Sundry	<u>22,565</u>
Total	4,273,806
Liabilities	<u>42,598</u>
Net worth	<u>\$4,231,208</u>

^a\$1,120,946 represents rehabilitation funds on deposit with the Department of the Treasury that are not available for the tribe's general use.

BIA records showed that the tribe's income was derived primarily from leases and subpermits issued on tribal and submarginal land and from interest earned on unexpended

rehabilitation program funds. Income from leases and subpermits averaged about \$50,000 during fiscal years 1971 and 1972. Interest income totaled \$93,000 in 1971 and \$70,000 in 1972. The interest income will continue to decline as rehabilitation program funds are expended.

The tribe applied all income from leases, subpermits, and interest toward its tribal operating budget. These revenues were not sufficient to cover tribal operating expenses which amounted to \$214,000 for fiscal year 1972. An agency office official said that new sources of income will have to be developed or the tribe will be forced to reduce the services provided to its members.

As of November 1972, the tribe had three claims pending with the Indian Claims Commission. Two of the claims, involving the Crow Creek Sioux Tribe and other Sioux tribes, are for fair compensation for land ceded to the Government in 1868 and 1876. The other claim is for a proper accounting by the Government of all funds held and expended on behalf of the tribe. No specific amounts have been established for these claims.

SUMMARY

The tribal chairman told us that, although the tribe had not prepared a plan for use of the submarginal land, its conveyance to the tribe would provide additional land suitable for agricultural development. He said that those tracts of submarginal land suitable for irrigation would be included in one of the tribal irrigation projects planned for the reservation and that the tribe would exchange isolated tracts of submarginal land for tracts in areas more suitable for development.

A BIA official said that conveyance of the submarginal land to the tribe would be in accordance with the tribe's land-purchasing program to consolidate units of land into parcels large enough to be economically usable. Nearly 78 percent of the submarginal land is within the tribal land consolidation area on the reservation.

Accordingly, we believe that conveyance of the submarginal 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.
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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
Comprtoller 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 Comprtoller 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

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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