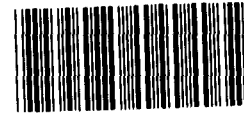


GAO

Testimony



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INDIAN ISSUES

**GAO's Assessment of Economic Analyses
of Fort Berthold and Standing Rock
Reservations' Compensation Claims**

Statement of
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Director of Operations,
Resources, Community, and Economic
Development Division

Before the
Select Committee on Indian Affairs
United States Senate



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Mr. Chairman, Mr. Vice-Chairman, and Members of the Committee:

I am pleased to be here today to discuss our assessment of the adequacy of the economic analyses supporting recommendations that Indian tribes at two reservations receive additional financial compensation for land taken by the federal government. I will also discuss our conclusions about alternative methods that the Committee might consider in addressing the question of additional financial compensation to the tribes. A final report on the results of our work is expected to be issued to you in the next few weeks.

In summary, our review has shown that the analyses performed by the tribes' consultants overstate the economic losses sustained when their land was taken and, consequently, should not be relied on by the Congress. The consultants' estimates of economic loss are overstated because they were based on overly optimistic assumptions about the tribes economic situation prior to the loss of the land. If the Congress should wish to consider providing additional compensation, an alternative approach might be used. In establishing a basis for determining additional compensation the Congress might start with the difference between the amount of compensation the tribes believed was warranted at the time the land was taken and the compensation that was appropriated by the Congress. Adjustments could be made as appropriate to reflect current values.

BACKGROUND

Congressional authorization to acquire and provide compensation for approximately 152,360 acres of land from the Fort Berthold Reservation in North Dakota, and about 56,000 acres from the Standing Rock Reservation in North and South Dakota was made in 1949 and 1958 respectively. The lands were needed to construct water resource projects authorized in the Flood Control Act of 1944

(P.L. 78-534). The Congress authorized compensation of \$12.6 million to the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara) of Fort Berthold in October 1949 and \$12.2 million to the Sioux Tribe of Standing Rock in September 1958 for the loss of their respective lands.¹

In 1985 the Secretary of the Interior established the Garrison Unit Joint Tribal Advisory Committee, or JTAC, to examine the economic and developmental needs of the two reservations, including the need for additional financial compensation for the land taken by the government to construct the flood control project. During its evaluation of the additional compensation issue, JTAC requested that the tribes estimate the economic losses they sustained as a result of the federal government taking their land.

Each reservation hired an economic consultant to determine the dollar value of the tribes' economic losses. The consultants used different analytical approaches for estimating these losses. The consultant for Fort Berthold calculated that the Three Affiliated Tribes sustained losses of between \$170 million and \$178.4 million and proposed that they receive additional compensation of between \$170 million and \$180 million. The consultant for the Sioux Tribe of Standing Rock calculated a loss of \$342.9 million and recommended that amount in additional compensation.

On the basis of the consultants' analyses, JTAC concluded that the tribes had not been adequately compensated and recommended that they receive additional compensation. Because the consultants used differing analytical approaches and JTAC did not favor one over the other, JTAC estimated the economic losses for each tribe using both consultants' approaches. JTAC's calculations resulted in a range of \$178.4 million to \$411.8 million for Fort Berthold

¹P.L. 81-437 and P.L. 85-915, respectively.

and \$181.2 million to \$342.9 million for Standing Rock.² Interior subsequently disagreed with JTAC's conclusion and recommendation.

CONSULTANTS' ANALYSES INCLUDED

QUESTIONABLE ASSUMPTIONS AND METHODS

We found that the consultants overstated the tribes' economic losses primarily because they made assumptions that were too optimistic regarding the tribes' economic situation prior to the loss of the land and regarding the economic activity that would have occurred if the land had not been taken. For example, the approach used by the consultant for Fort Berthold, which resulted in the lower estimate of the JTAC range for each reservation, assumed, among other things, a family income for reservation families at the level of U.S. median family income that was much higher than reported Indian family income when the land was taken. The consultant also assumed that tribal members would become and remain unemployed once the land was taken even though there was evidence that some Indians could be employed off the reservation.

The approach used by the consultant for the Sioux Tribe of Standing Rock, which resulted in the higher estimate of the JTAC range for each reservation, (1) double-counted the income that could have been earned from the land; (2) assumed an annual timber harvest level in perpetuity that was almost three times the level that could have been sustained according to Interior data; and (3) assumed that no labor, transportation, or other costs were associated with producing timber or other natural resource products.

²JTAC's estimate of \$411.8 million for Fort Berthold resulted from the application of the Standing Rock consultant's analytical approach; JTAC's \$181.2 million estimate for Standing Rock resulted from the application of the Fort Berthold consultant's analytical approach.

Finally, neither consultant reduced its estimate of additional compensation by the total amount the Congress had previously appropriated for the land taken.

HISTORICAL INFORMATION MAY BE
USEFUL IN ADDRESSING THE ISSUE
OF ADDITIONAL COMPENSATION

There is limited information concerning the tribes' economic condition at the time the land was taken on which to base an estimate of their economic losses. Therefore, an alternative approach for considering additional compensation might be to base such an estimate on the current value of the difference between the dollar amounts the tribes believed were warranted when the land was taken by the federal government and the amounts the Congress appropriated as compensation.

In 1949 the three Fort Berthold tribes estimated that the land being acquired was worth approximately \$22 million, about \$9.4 million more than the amount appropriated by the Congress. In 1956 the Standing Rock Sioux Tribe estimated that their land being acquired was worth about \$26.4 million, or \$14.2 million more than the amount appropriated by the Congress. We adjusted the \$9.4 million and the \$14.2 million to reflect their current values under a range of investment assumptions. The lower estimate in the range was derived by assuming no investment and merely adjusting the dollar amount for inflation. The higher estimate was derived by assuming that 100 percent of the dollar amount would be invested at the corporate bond rate. Our calculated dollar range for the three Fort Berthold tribes is \$51.8 million to \$149.2 million; and for the Standing Rock Sioux Tribe, \$64.5 million to \$170 million.

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In summary, the question of whether additional compensation should be provided to the tribes is a policy decision for the Congress. However, if the Congress decides that additional compensation is warranted, we believe that the economic analyses used by JTAC should not be relied on as a definitive measure of tribal economic losses that are attributable to the taking of reservation land.

Mr. Chairman and Mr. Vice-Chairman, this concludes my statement. I would be pleased to respond to any questions you or other members of the Committee may have.