



5-9-1949

Providing for the Ratification by Congress of a Contract for the Purchase of Certain Indian Lands by the United States from the Three Affiliated Tribes of Fort Berthold Reservation, N. Dak.

United States Congress

US House of Representatives

Follow this and additional works at: <https://commons.und.edu/indigenous-gov-docs>



Part of the [American Politics Commons](#), [Indigenous, Indian, and Aboriginal Law Commons](#), [Indigenous Studies Commons](#), [Law and Politics Commons](#), [Native American Studies Commons](#), and the [United States History Commons](#)

Recommended Citation

United States Congress, , and US House of Representatives. "Providing for the Ratification by Congress of a Contract for the Purchase of Certain Indian Lands by the United States from the Three Affiliated Tribes of Fort Berthold Reservation, N. Dak.." , : Government Printing Office, 1949. -. <https://commons.und.edu/indigenous-gov-docs/94>.

This Report is brought to you for free and open access by the Elwyn B. Robinson Department of Special Collections at UND Scholarly Commons. It has been accepted for inclusion in US Government Documents related to Indigenous Nations by an authorized administrator of UND Scholarly Commons. For more information, please contact und.common@library.und.edu.

PROVIDING FOR THE RATIFICATION BY CONGRESS OF A CONTRACT FOR THE PURCHASE OF CERTAIN INDIAN LANDS BY THE UNITED STATES FROM THE THREE AFFILIATED TRIBES OF FORT BERTHOLD RESERVATION, N. DAK.

MAY 9, 1949.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LEMKE, from the Committee on Public Lands, submitted the following

REPORT

[To accompany H. J. Res. 33]

The Committee on Public Lands, to whom was referred the joint resolution (H. J. Res. 33) providing for the ratification by Congress of a contract for the purchase of certain Indian lands by the United States from the Three Affiliated Tribes of Fort Berthold Reservation, N. Dak., and for other related purposes, having considered the same, report favorably thereon with amendments and recommend that the joint resolution as amended do pass.

The amendments are as follows:

Page 20, line 18, strike out the first "East" and insert in lieu thereof "West".

Page 69, line 11, capitalize the word "land".

Page 69, line 12, strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior, or his duly authorized representative".

Page 69, line 16, delete the second "d" from the word "period".

Page 70, line 4, strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior, or his duly authorized representative".

Page 70, lines 12 to 14, strike out the following sentence:

Preference shall be given to the original allottee in the purchase of or exchange for lands acquired by the tribes under this section.

Page 70, line 25, strike out the word "all" and insert in lieu thereof the words "any and all claims which they may have for".

Page 71, line 2, insert before the semicolon the words "by reason of the construction and operation of Garrison Dam and Reservoir project, North Dakota".

Page 71, line 2, insert after the word "the" the words "disregard or".

Page 72, line 2, strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior, or his duly authorized representative".

Page 72, line 3 to 23, strike out all of section 5 and insert in lieu thereof the following:

SEC. 5. When electric power is available from the Garrison Dam, there is hereby reserved and set aside a block of power of 20,000 kilowatts for sale and distribution by the Three Affiliated Tribes for use of such power on the residual Fort Berthold Reservation as it may be extended. This block of power shall be delivered at such point or points on the reservation and at such voltage as may be determined by the Secretary of the Interior. Payment shall be made for the power actually used at the lowest wholesale rate or rates, applicable to the same class of service, made available to other customers receiving electric power from the Garrison Dam power plant. The transmission and distribution system necessary for the delivery of such block of power to the customers of the said Three Affiliated Tribes shall be constructed from time to time as needed by the said Tribes, with funds made available therefor by the United States without cost to the said Tribes, and there is hereby authorized to be appropriated from time to time such sums as may be required for the construction of the said distribution system to make available to the customers of the said Three Affiliated Tribes the block of power herein reserved to them. The rates for the sale of the power by the Three Affiliated Tribes shall be subject to approval by the Secretary of the Interior. Until such time as the said Three Affiliated Tribes shall require all of the electric power reserved to them, any amount in excess of that actually required by the said Three Affiliated Tribes shall be available to the Secretary of the Interior for sale or disposition off the Fort Berthold reservation as extended.

Page 73, lines 1 to 8, strike out the following:

within the residual areas of the Fort Berthold Reservation and there shall be constructed, maintained, and operated irrigation works on the lands within the residual area upon the findings of feasibility of providing such irrigation facilities. The provisions for such investigations and irrigation works shall extend to any Indian individual or tribal trust lands acquired in the future.

Insert in lieu thereof the following:

for any Indian individual or tribal trust lands within the residual Fort Berthold Reservation as it may be extended, including any such lands acquired in the future. Any irrigation works and related facilities which, on the basis of such investigations, the Secretary of the Interior determines to be feasible are hereby authorized to be constructed, maintained, and operated under his direction.

Page 73, lines 22 to 23, strike out the date "July 31, 1947" and insert in lieu thereof "May 20, 1948".

Page 74, lines 7 to 12, strike out the colon and remainder of the section and insert a period after the word "Tribes".

Page 74, line 15, after the word "when" insert the words "accepted by the Tribal Business Council of the Three Affiliated Tribes and".

Page 74, line 20, change the period to a colon and insert the following:

Provided, That no funds authorized in this Act shall be made available to the Three Affiliated Tribes or their members until the Secretary of the Interior has received an appropriate resolution adopted by the Tribal Council and approved by a majority of the adult members of said tribes as accepting payment authorized by this Act as "full, complete and final settlement of all rights, interest, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States by reason of the construction of Garrison Dam and Reservoir Project, North Dakota."

Page 75, add the following new section:

SEC. 12. Lands or interests in lands acquired pursuant to article VII or article VIII of the contract set forth in section 1 of this joint resolution may be sold to or

exchanged with the Three Affiliated Tribes or members thereof, or may be exchanged with other persons, in the manner now or hereafter authorized by law for the sale or exchange of lands owned by such Tribes or members thereof.

EXPLANATION OF THE BILL

The purpose of this proposed legislation is to reimburse the Indians of the Fort Berthold Reservation in North Dakota for lands taken by the United States for the Garrison Dam and Reservoir project. House Joint Resolution 33 is endorsed by the Department of the Interior, the majority of the members of the Three Affiliated Tribes of the Fort Berthold Reservation, and the Members of Congress from North Dakota.

Garrison Dam is a multiple-purpose dam in connection with the Missouri River Valley project. It is an important link in the development of the Missouri River Basin and will be of primary benefit to flood control and navigation. Its site was chosen because of the great stretch of bottom land beginning 20 miles downstream from the Fort Berthold Reservation line and extending upstream to Williston, N. Dak. Into this basin will flow all the water of the Missouri and Yellowstone Rivers. Although navigation and flood control are the primary purposes of Garrison Dam, hydroelectric power and irrigation will, in the long run, pay for the dam and all damages occasioned to individuals.

The Garrison project is deemed necessary by the Government, but its construction will result in the flooding of a quarter million acres of rich bottom land. The Fort Berthold Indians will be forced to vacate 155,000 acres of their land—land located in the heart of the reservation, and land on which the Indians have lived for 100 years. The so-called Three Affiliated Tribes—the Arikara, Gros Ventre, and Mandan Indians—of the Fort Berthold Reservation have built for themselves a strong and growing cattle industry and steadily expanding agricultural program. At this time, they are in sight of complete economic independence. Now, through no action of the Indians, they must give up their homeland. Their homes will be lost, their cattle industry will be ruined, their churches and their schools, and their social life will be completely disrupted. The residue of their lands will be reduced to a small fraction of the present value.

The only hope that these Indians, 2,215 in number, can possibly have is that the Federal Government will compensate them in money and in addition furnish such services as are necessary to obtain a sufficient degree of reconstruction. Thus they will be enabled to make a new start in life and once again begin the hard climb to reach the point of development which they, themselves, at this time have achieved. The enactment of House Joint Resolution 33 will help accomplish that purpose.

House Joint Resolution 33 calls for an appropriation of \$14,605,625. That includes the original appropriation of \$5,105,625 granted in the War Department Civil Functions Appropriation Act of July 31, 1947. Another \$3,000,000 is allowed as a land-readjustment fund and the sum of \$6,500,000 is granted as additional indemnifying compensation.

The Committee on Public Lands feels that \$14,605,625 is small compensation for the disruption forced upon the 2,215 Indians. A conservative estimate of the basic value of the lands and their annual

use value is approximately \$21,981,000. Therefore, the United States, by making the settlement at \$14,605,625, will obtain the reservoir right-of-way at about two-thirds of its basic value and its annual use value to the Three Affiliated Tribes.

The favorable report of the Department of the Interior is set forth below as appendix I of this report. House Joint Resolution 33 is explained in detail in the Department's communication.

Certain clarifying amendments proposed by the Department of the Interior have been adopted by the committee. The committee also has adopted an amendment designed to protect the United States against any further demands by the Indians for additional compensation.

The Committee on Public Lands unanimously recommends the prompt enactment of House Joint Resolution 33, as amended.

APPENDIX I

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., April 28, 1949.

HON. J. HARDIN PETERSON,
*Chairman, Committee on Public Lands,
House of Representatives.*

MY DEAR MR. PETERSON: Further reference is made to your request of January 29 for a report on House Joint Resolution 33, providing for the ratification by Congress of a contract for the purchase of certain Indian lands by the United States from the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., and for other related purposes.

I urge that this measure, with the amendments hereinafter suggested, be enacted at the earliest practicable date.

The passage at the present session of a measure along the lines of House Joint Resolution 33 is greatly needed because of the circumstances in which the Fort Berthold Indians have been placed by the decision of the Congress to construct the Garrison Dam and Reservoir. That dam is being built; it will be completed in 1953. The 300 Indian families who live in the reservoir-taking area must be evacuated by the fall of 1952. Very little time is now left to make plans for their removal and to carry out such plans.

The Congress has shown marked concern that a proper settlement be made with the Indians of the Fort Berthold Reservation. In my view, the provisions of House Joint Resolution 33 embody a reasonably just and equitable settlement. I believe the Indians will accept this settlement as complete and final, although they will do so reluctantly and with heavy hearts. To give up forever the heart of the homeland which has been theirs for generations commands profound sympathy.

Because of the complexity of this matter, I am attaching to this letter a memorandum of information which explains in detail the terms of the proposed settlement and the facts justifying those terms.

House Joint Resolution 33 consists of two distinct parts:

1. Section 1 (pp. 1 to 69) contains the contract between the Three Affiliated Tribes and the United States, executed May 20, 1948, in accordance with the act of July 31, 1947 (61 Stat. 686, 690).

2. Sections 2 to 11, inclusive (pp. 69 to 75), contain various supplementary authorizations which would be added to the contract settlement, in lieu of the right of the Indians to bring suit in the Court of Claims as authorized by the act of July 31, 1947, cited above.

The act of July 31, 1947, appropriated \$5,105,625 to compensate the Fort Berthold Indians for certain items of damage to be sustained by them through the construction of the Garrison project, but provided that this money should not become available to the Indians

unless an appropriate contract relinquishing to the United States the Indian lands within the reservoir area was executed by them and ratified by the Congress, and also provided that suit might be brought in the Court of Claims for additional items of damage asserted by the Indians. In the contract negotiations, representatives of the Indians strongly expressed the view that the amount stated in the act would not be full compensation for their losses. At the same time, they were reluctant to have consideration of their claims for additional compensation deferred until a suit could be brought in the Court of Claims. However, they did on May 20, 1948, execute the contract on the limited basis of \$5,105,625, because they felt that they were helpless to do otherwise. At the insistence of the Indians, article I of the contract contains a clause by which the Three Affiliated Tribes reserve the right to pursue further their claims against the United States, by petitioning the Congress, as well as by litigation.

When in the Eightieth Congress the negotiated contract was introduced for ratification, additional appropriation authorization sections, similar to those now appearing in House Joint Resolution 33, were contained in the ratifying measure. A hearing on this earlier measure (S. J. Res. 224, 80th Cong.) was held on June 5, 1948, by the Subcommittee on Indian Affairs of the Senate Committee on Interior and Insular Affairs. Members of the Subcommittee on Indian Affairs of the Public Lands Committee of the House of Representatives also participated in this hearing. The proceedings indicated a substantial unanimity of opinion to the effect that the Congress should provide for a definitive settlement with the Three Affiliated Tribes, which, in addition to the ratification of the contract of May 20, 1948, would grant them adequate compensation for all of the property and other rights being taken by the United States for the Garrison project.

The present joint resolution is designed to provide such a settlement in lieu of the more protracted and less certain remedy of a suit in the Court of Claims. Section 9 reads as follows:

The foregoing conditions and requirements, and the funds made available and those authorized to be appropriated in this joint resolution, when appropriated, shall be in complete and final settlement of all the rights, interests, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States by reason of the construction of the Garrison Dam and Reservoir project, North Dakota.

Viewing House Joint Resolution 33 as a whole, it contains three principal appropriation authorizations, as follows:

1. The contract appropriation (secs. 1 and 7)-----	\$5, 105, 625
2. Land readjustment fund (secs. 2 and 3)-----	3, 000, 000
3. Additional indemnifying compensation (sec. 4)-----	6, 500, 000
Total -----	14, 605, 625

In addition, section 5 would reserve some 20,000 kilowatts of electric power from the Garrison project for the use of the Three Affiliated Tribes, and would provide for the construction by the United States of an electric transmission and distribution system on the Fort Berthold Reservation for their benefit. This undertaking would involve a future expenditure which, in terms of the present value of the commitment, would amount to approximately two and one-half million dollars. Thus, the benefits to the Indians, under the settlement now proposed, would total about \$17,000,000.

Before considering the adequacy and justification of a settlement defined in these monetary terms, it is best to recapitulate briefly the effects of the Garrison taking on the Fort Berthold Reservation and its people.

Under the treaty of 1851, 12,500,000 acres were set aside as a reservation for the Mandan, Gros Ventre, and Arikara Tribes. This area has been diminished until at present the reservation comprises some 585,000 acres. By reason of the construction of Garrison Dam, the area will be further reduced to some 430,000 acres. The Indian population of the Three Affiliated Tribes is 2,215. The taking of 155,000 acres of the best land of the reservation is a severe blow to them. The Indians have suffered great emotional stress because of the imminent upheaval of their economic, social, and community activities. This is readily understandable, considering that their feeling of security under their treaty with the United States is gone.

The reservoir that will result from the building of the dam will destroy the best fertile land on the reservation. This land is accessible to the river, it possesses outcrops of lignite, it is the choice area for dwellings, it possesses the only timber on the reservation, it has a shallow underground water table that affords easy accessibility to water for domestic use, and it is the only area providing protective winter range for the Indian cattle industry, which forms the principal means of livelihood for the people on the reservation.

At the present time the Indians own in excess of 7,000 head of cattle, an increase since 1938 of more than 3,000 head. The present reservation bottom lands which will be flooded afford year-long grazing for the Indians' cattle. The taking of these lands will deprive the Indians of winter range and will cause a drastic reduction in the carrying capacity of the reservation. The loss of the winter range and the protection afforded by the timber thereon will require a complete realignment in the grazing activities. It will necessitate increased costs for winter feeding and the provision, at large expense, of proper winter shelter for the cattle against the subzero temperatures of the region left within the reservation after the flooding of the sheltered bottom lands. Another item of economic loss will be the timber areas within the flow line of the reservoir, which, in addition to providing lumber, also afford fuel, house logs and fence posts, for domestic purposes.

The Garrison Reservoir will flood not only the main valley of the Missouri River within the Fort Berthold Reservation, but also the valleys of the Little Missouri, Shell, and Lucky Mound Creeks, severing the residual reservation into five water-bound segments. This will effectually isolate the residents of each segment, cutting all direct transportation and communication except by water. This segmentation of the residual reservation will force radical changes in the entire economic and social life of the Indians, and in the administration of their affairs.

Many of the Indians live on allotments within the bottom land in which they have only an undivided interest with many other Indians. Others live on allotments owned by relatives, which they are permitted to occupy by courtesy, following Indian custom. A great part of the bottom lands consists of the allotments of old people who received their allotments in this choice part of the reservation when the first allotments were made. The taking of the bottom

lands, therefore, will not be a simple matter of individuals selling their farms or losing their leases and moving to other farms, as is usually the case among non-Indians. It involves a group problem, where land ownership and use is confused and inextricably entwined by Indian custom, and by the complications resulting from the fact that the land holdings of many of the Indians consist of fractional undivided interests, acquired by inheritance, in several separate allotments. Those Indians who are living with relatives on land to be taken, and who have little or no actual title interest in that land, will be required to remove from their present living quarters without receiving sufficient compensation to provide for the acquisition of new homes. This creates in itself a serious housing problem.

The provision of a relocation program for the complete economic and social rehabilitation of the entire group of Indians is an enormous task. A considerable period of rehabilitation will be required for the displaced Indian people to acclimate and readjust themselves in their new surroundings. The taking involves all the nine communities of the reservation in whole or in part, and the disruption of these communities will have great disorganizing effect. The removal of people from neighborhoods where strong social relationships and cooperation have been established, and their resettlement where none of these relationships and cooperation exist will deeply undermine their sense of security. Nor is this disruption confined to the home life. It involves church, social, and almost all community activities. Existing churches, cemeteries, schools, and public facilities must be relocated. Even though part of the displaced families will resettle on the existing diminished reservation, others will have to resettle on lands acquired for them elsewhere, since 155,000 acres of the reservation lands will be lost.

It is facts such as these which justify the elements of compensation contained in House Joint Resolution 33. The principal ones are outlined below.

1. *The contract appropriation.*—The contract of May 20, 1948, is based on the appropriation of \$5,105,625 contained in the act of July 31, 1947, and provides for three classes of expenditure, namely, (1) payment of the fair market value of the tribal and allotted lands taken for the reservoir, (2) payment of the cost of removing the Indians from the reservoir-taking area, and (3) payment of the cost of relocating cemeteries. If these three costs, when determined, are less than \$5,105,625, the Indians are to retain the unexpended balance as tribal funds; if these three costs, when determined, exceed \$5,105,625, the United States is committed to appropriating the deficit.

The Commissioner of Indian Affairs is made responsible for (1) making the necessary appraisals of the lands taken, (2) preparing a plan for removing the Indians, (3) preparing a plan for removing the cemeteries, and (4) preparing a plan for the use of the shore line of Garrison Reservoir within the reservation. If and when the appraisals and these respective plans are approved by the Army Chief of Engineers, the Commissioner is made responsible for the administrative execution thereof. If the Indians reject the appraisals placed on any or all of their lands, the right to seek judicial determination in the Federal courts of the just compensation due for such lands is reserved to them.

Proceeds received by the Three Affiliated Tribes for tribal lands are to be held in trust, but may be expended to acquire lieu lands or other tribal property. Proceeds received by individual members of the tribes are to be deposited in individual Indian money accounts at the agency and expenditures therefrom are to be made by the superintendent under regulations of the Secretary of the Interior.

The Indians may salvage standing timber free of charge until October 1, 1950, and their improvements until October 1, 1952. Their hunting and trapping rights within the taking area are reserved, but they consent to having the fishing regulations established for Garrison Reservoir apply to them. Any subsurface values discovered in the future within the lands involved are to be compensated for through royalties. The contract, when ratified, is to constitute a conveyance to the United States of the fee titles to all the tribal and allotted lands within the taking area.

2. *Land readjustment fund.*—Sections 2 and 3 of the joint resolution authorize an appropriation of \$3,000,000 to establish a land readjustment fund. This fund is to be used for consolidating the land holdings of the Three Affiliated Tribes and the members thereof into economic-use units, and in purchasing land for needy members of the tribes. Money in the fund may be used to acquire, by purchase or exchange, allotted, inherited, or unrestricted lands, as well as interests in lands and improvements, within the Fort Berthold Reservation. Lands so acquired may be disposed of, through sale or exchange, to individual Indians. Proceeds derived from the Garrison land taking may be used by individual members of the tribes to purchase lands acquired by use of the fund. To care for needy members, lands obtained through the operation of the fund may be placed in tribal ownership for assignment to such persons. The fund is to be administered by the Commissioner of Indian Affairs and its operation terminated at the end of 10 years. Any unexpended balance in the fund at the end of the 10-year period is to be returned to the Treasury. Any lands which have not been deeded to members are to be held by the United States in trust for the tribes, and are to be nontaxable and nonalienable until otherwise provided by Congress.

Allotment of tribal lands to individual Indians on the Fort Berthold Reservation began in 1895, was carried out through the making of four separate groups of allotments at various times, and has created the following conditions: (1) Approximately 50 percent of the allotted lands are in heirship status, but 75 percent of the bottom lands (largely allotted in 1895) are in that status. These are precisely those lands which lie within the Garrison Reservoir right-of-way. Most individual Indians today have interests within two and sometimes three of the four allotment groups, and most families have interests in all four. (2) While the allotments are scattered throughout the entire area of the reservation, the family groups have, through one means or another, located their homes on the bottom lands—i. e., within the Garrison right-of-way. (3) Through fractionization of the individual holdings, it has been difficult for the Indians to use their lands themselves, with the result that 340,000 acres are being leased or permitted to non-Indians. (4) In spite of the pattern of allotment, the Indians have succeeded in building their economy on a strip of 241,000 acres on both sides of the river. From this strip, the flooding of the reservoir area will take out of the heart, 155,000

acres. (6) For each acre of allotted land owned in the Garrison right-of-way, the Fort Berthold Indians own 3 acres on other parts of the reservation. (7) No individual, or even family, will receive compensation for the lands taken for the right-of-way in an amount sufficient to buy a new farm or ranch unit, unless the value of the lands owned outside of the right-of-way can be realized, or unless land holdings can be consolidated. (8) Removed Indians will not be able to establish satisfactory farm or ranch units on the residual reservation unless an extensive reservation-wide program of exchange and reconsolidation is undertaken.

The only practical approach to this problem is the creation and operation of the proposed land readjustment fund. One major use of this fund would be to purchase lands in the residual reservation from Indians who want to relocate outside of the reservation. By adding together the compensation obtained from the taking of land in the reservoir right-of-way and the proceeds derived from the sale of land in the residual reservation to the fund, the means would be provided whereby a number of Indian families could buy a new farm or ranch, or acquire some other business enterprise, off the reservation. Another major use of the fund would be to purchase lands in the residual reservation, either from Indians or from white patentees, in order to block up consolidated, family-size, economic units for farm or ranch purposes. A third would be to acquire lands for tribal assignment to landless Indians who must remove from the right-of-way.

An appropriation of \$3,000,000, as provided for in House Joint Resolution 33 should be adequate to establish a land readjustment fund for the purposes described above. For the most part, this sum would be used to acquire various categories of land within the reservation boundaries as a land base from which sales and exchanges could be made in order to create economic farm and ranch units to be disposed of under trust patents. The fund could also be used to acquire for the Three Affiliated Tribes low-grade allotted lands which can be effectively utilized only in large blocks as community pastures.

3. *Additional indemnifying compensation.*—Although the contract of May 20, 1948, contains several concessions not usually allowed in condemnation proceedings, it is clear that the contract does not provide compensation for all of the elements of value inhering in the lands to be taken. Thus, the stand of timber has a real value to the Indian economy which is in excess of its "fair market value." Similarly, certain lands in the taking area which are now potentially irrigable will not be paid for in terms of the additional value which such lands should command by reason of this potentiality. Finally, and most important of all, the segmentation of the residual reservation into five water-separated areas destroys the geographical homogeneity of the Indians' land base. The severance damages included in the appraisal under the contract will relate only to the severance of individual tracts. Severance of the reservation base, a far more serious and significant effect of the taking, will not be paid for under the contract. A conservative evaluation of these losses indicates that the additional compensation which should be paid therefor would be about \$3,260,000 (for details see paragraph E, II, 1 of the accompanying memorandum of information).

It is also clear that the contract will not provide sufficient funds with which to carry out a proper removal and reestablishment of the

Fort Berthold Indians. The net effect of the Garrison project on the Fort Berthold Indians will be to wipe out virtually all of the progress which they have made in the past three generations. It will be necessary for them to construct a new economy and develop new habits of life. The additional funds necessary to help them in re-establishing their basic livestock and farming economy on the residual segments of the reservation; to assist a number of families in removing entirely from the reservation; and to support a proper vocational educational system for the future which will prepare a certain portion of the younger generation to make their living away from the reservation are conservatively estimated at \$3,150,000 (for details see paragraph E, II, 2 of the accompanying memorandum of information).

The appropriation of \$6,500,000 that would be authorized by section 4 of House Joint Resolution 33 is intended to be equivalent to the values not compensated for under the contract, plus the additional funds required for full rehabilitation of the economy and social structure of the Fort Berthold Indians. In my view, the amount stipulated in section 4 is not excessive and would fairly compensate the Indians for the claims reserved under the contract of May 20, 1948, that would be extinguished by section 9 of the joint resolution. The property losses and other injuries that must be borne by the Fort Berthold Indians are being brought about at the instance of the United States Government for the advantage, protection, and interest of a large and populous region of the United States. The benefits of the Garrison project to a considerable degree are to be gained at the expense of the members of the Three Affiliated Tribes, most of whose property is held in trust by the United States and whose welfare is still a Federal responsibility. In the circumstances, the United States must acquit itself of the charge that it is proceeding with this public work in violation of solemn treaties and other promises, and without due regard for the welfare of its Indian citizens. Every effort should be made on the part of the United States to see that the injuries sustained by the Indians are mitigated to the fullest possible extent, and that they are given the means for making a good life in their new locations.

4. *Reservation of Garrison Electric Power.*—One of the important measures which can be used to promote the rehabilitation of these displaced people is the setting aside for their benefit of a block of power from the power development at the Garrison Dam. The fact that the 155,000 acres of land being taken from the Fort Berthold Indians forms an integral part of the reservoir required in the development of the electric energy at Garrison Dam, and the further fact that the advancement of the new communities which the Indians must establish will depend to a substantial degree upon the availability of low-cost hydroelectric power, amply justify such a reservation. This is provided for in section 5, appearing on page 72 of the joint resolution.

As now drafted, section 5 requires the reserved block of power to be sold to the Three Affiliated Tribes at a rate not exceeding 2 mills per kilowatt-hour. This rate is lower than the present estimated cost of the power at Garrison Dam. To give a preferential rate at less than cost to particular users would be contrary to one of the most important tenets of the general power policies established by the Congress. On the other hand, section 5, as now drafted, makes no pro-

vision for the construction of a transmission and distribution system on the reservation in order that the power so set aside may be put to use when it becomes available. To meet these problems, and for purposes of clarification, it is recommended that section 5 of House Joint Resolution 33 be amended to read substantially as follows:

Sec. 5. When electric power is available from the Garrison Dam, there is hereby reserved and set aside a block of power of 20,000 kilowatts for sale and distribution by the Three Affiliated Tribes for use of such power on the residual Fort Berthold Reservation as it may be extended. This block of power shall be delivered at such point or points on the reservation and at such voltage as may be determined by the Secretary of the Interior. Payment shall be made for the power actually used at the lowest wholesale rate or rates, applicable to the same class of service, made available to other customers receiving electric power from the Garrison dam power plant. The transmission and distribution system necessary for the delivery of such block of power to the customers of the said Three Affiliated Tribes shall be constructed from time to time as needed by the said Tribes, with funds made available therefor by the United States without cost to the said Tribes, and there is hereby authorized to be appropriated from time to time such sums as may be required for the construction of the said distribution system to make available to the customers of the said Three Affiliated Tribes the block of power herein reserved to them. The rates for the sale of the power by the Three Affiliated Tribes shall be subject to approval by the Secretary of the Interior. Until such time as the said Three Affiliated Tribes shall require all of the electric power reserved to them, any amount in excess of that actually required by the said Three Affiliated Tribes shall be available to the Secretary of the Interior for sale or disposition off the Fort Berthold reservation as extended.

The present value of the distribution system to be constructed by the Government under this proposed revision is estimated at about \$2,500,000, taking into consideration the fact that it may be 20 years or more before the reserved block of power can be utilized entirely by or for the Three Affiliated Tribes, and before all of the distribution facilities to be provided at the expense of the Government will need to be constructed.

Section 6 of House Joint Resolution 33 would require the making of a comprehensive survey of the irrigation potentialities of the lands remaining within the Fort Berthold Reservation, and would authorize the undertaking of such irrigation developments as this investigation may show to be feasible. However, the possibilities for irrigation on the residual lands are small, and any developments that were undertaken pursuant to this section would be on a reimbursable basis. For these reasons, it is not believed that any pecuniary value can be assigned to section 6.

The various items of consideration authorized in the contract of May 20, 1948, and in the supplemental provisions of House Joint Resolution 33 add up to a sum in the neighborhood of \$17,000,000. I believe that these benefits are well within the amounts that should be provided for the Indians if they are to receive an adequate and just recompense for the rights and properties they are giving up to the United States. In this respect it is well to bear in mind that the Indians would much prefer to retain their existing reservation intact. In the discussions preceding the execution of the contract, they expressed the belief that it would require \$30,000,000 to compensate them properly for what is being taken from them. If they are willing to accept the lesser benefits provided for in the contract and in House Joint Resolution 33, I believe the approval of this compromise would be to the best interests of the United States.

The following amendments are recommended in order to clarify and perfect certain provisions of the joint resolution:

(1) On page 20, line 18, strike out the first "East" and insert in lieu thereof "West".

(2) On page 69, line 11, the word "land" should be capitalized.

(3) On page 69, line 12; page 70, line 4; and page 72, line 2, strike out the words "Commissioner of Indian Affairs" and insert in lieu thereof the words "Secretary of the Interior, or his duly authorized representative".

(4) On page 69, line 16, the second "d" should be deleted from the word "period".

(5) On page 70, lines 12-14, strike out the following sentence:

Preference shall be given to the original allottee in the purchase of or exchange for lands acquired by the tribes under this section.

(6) On page 70, line 25, strike out the word "all" and insert in lieu thereof the words "any and all claims which they may have for".

(7) On page 71, line 2, insert before the semicolon, the following words "by reason of the construction and operation of Garrison Dam and Reservoir Project, North Dakota".

(8) On page 71, line 2, insert after the word "the" the following words "disregard or".

(9) On page 73, lines 1-8, strike out the following:

within the residual areas of the Fort Berthold Reservation and there shall be constructed, maintained, and operated irrigation works on the lands within the residual area upon the findings of feasibility of providing such irrigation facilities. The provisions for such investigations and irrigation works shall extend to any Indian individual or tribal trust lands acquired in the future.

and insert in lieu thereof the following:

for any Indian individual or tribal trust lands within the residual Fort Berthold Reservation as it may be extended, including any such lands acquired in the future. Any irrigation works and related facilities which, on the basis of such investigations, the Secretary of the Interior determines to be feasible are hereby authorized to be constructed, maintained, and operated under his direction.

(10) On page 73, lines 22-23 strike out the date "July 31, 1947" and insert in lieu thereof "May 20, 1948".

(11) On page 74, lines 7-12, strike out the colon and remainder of the section and insert a period after the word "Tribes".

(12) On page 74, line 15, after the word "when" insert the following words "accepted by the Tribal Business Council of the Three Affiliated Tribes and".

(13) The following new section should be added for clarifying purposes:

SEC. 12. Lands or interests in lands acquired pursuant to article VII or article VIII of the contract set forth in section 1 of this joint resolution may be sold to or exchanged with the Three Affiliated Tribes or members thereof, or may be exchanged with other persons, in the manner now or hereafter authorized by law for the sale or exchange of lands owned by such Tribes or members thereof.

It is most desirable that favorable action be taken on House Joint Resolution 33, with the suggested amendments, at an early date. The funds appropriated by the act of July 31, 1947, cannot be made available for the purpose of aiding the Indians to remove from the reservoir area until the contract of May 20, 1948, has been ratified by the Congress. The other funds necessary to mitigate the effect of this disruption of the

Indians' way of life cannot be obtained until the proposed settlement with them has been authorized by legislation. Construction of the Garrison project, however, is progressing as planned, and in due course the dam will be completed and the reservoir filled with water. It is necessary that the money due the Indians be made available without delay so that their relocation may be effected and their economy re-established as soon as practicable. Otherwise, we may find them remaining in their homes, with no place to go, at the time the reservoir is filling with water.

Due to the imminence of hearings, this report has not been submitted to the Bureau of Budget for approval. Therefore, no commitment can be made as to the views expressed therein to the program of the President.

Sincerely yours,

J. A. KRUG,
Secretary of the Interior.

MEMORANDUM OF INFORMATION ON SENATE JOINT RESOLUTION 11 AND HOUSE JOINT RESOLUTION 33, PROVIDING FOR THE RATIFICATION BY CONGRESS OF A CONTRACT FOR THE PURCHASE OF CERTAIN INDIAN LANDS BY THE UNITED STATES FROM THE THREE AFFILIATED TRIBES OF FORT BERTHOLD RESERVATION, N. DAK., AND FOR OTHER RELATED PURPOSES

A. INTRODUCTION

This joint resolution undertakes to provide a complete and final settlement with the Three Affiliated Tribes of the Fort Berthold Reservation, N. Dak., in consideration of the taking of their lands for the Garrison project. Efforts to effect settlement have been prosecuted since 1946 and have been the subject of wide public interest. The joint resolution now before Congress contains two distinct elements: (1) The text of an executed contract between the tribes and the United States for \$5,105,625 which has already been appropriated; and (2) supplementary sections principally providing appropriation authorizations for \$3,000,000 to establish a land-readjustment fund, for \$6,500,000 as extra compensation, and for the reservation of 20,000 kilowatts of Garrison electric power for consumption within the residual Fort Berthold Reservation.

B. BACKGROUND OF JOINT RESOLUTION IN EIGHTIETH CONGRESS

The War Department's Civil Appropriation Act, 1948 (Public Law 296, 80th Cong., approved July 31, 1947), appropriated \$5,105,625 for the acquisition of the lands and rights of the Three Affiliated Tribes within the taking line of the Garrison Reservoir within the Fort Berthold Reservation, including all elements of value above or below the surface thereof and including all improvements, individual tract severance damages, and reestablishment and relocation costs. The appropriation was made available, however, on condition that a contract between the United States and the tribes should be negotiated and approved by a majority of the adult members of the tribes. It was specified that the contract should provide for the conveyance of the lands and interests to be taken, should set out the use, distribu-

tion, and disbursement of the appropriation, and should be submitted for the approval of the Congress on or before June 1, 1948. Finally the act provided that, notwithstanding the said contract, the tribes were authorized to bring suit in the Court of Claims as provided in section 24 of the act of August 13, 1946, on account of additional damages, if any, alleged to have been sustained by the said tribes by reason of the taking of the said lands and rights in the said Fort Berthold Indian Reservation on account of any treaty obligation of the Government or any intangible cost of reestablishment or relocation, for which the said tribes are not compensated by the said \$5,105,625.

Section 1 of the joint resolution incorporates the contract which was entered into by the tribes on May 20, 1948, in accordance with the provision of the War Department's Civil Appropriation Act, 1948, for all elements of value above and below the surface of the land to be taken. Sections 2 to 10 contain a series of supplementary clarifications, considerations, and appropriation authorizations proposed as final payments in lieu of a future suit in the Court of Claims as authorized in the said War Department Appropriation Act. Section 11 authorizes appropriations to carry out the joint resolution.

The conditions specified by Public Law 296 in regard to the negotiation and approval of the contract were fully met. The contract was freely negotiated by the tribal business council with the Chief of Engineers and his deputies in Washington, D. C., in January and February 1948. The council was assisted by the tribal attorney, Mr. Ralph H. Case, of Washington, D. C. The Acting Commissioner of Indian Affairs and his deputies participated in the negotiations. The draft contract was subsequently submitted by the tribal business council to the members of the tribes at a series of community meetings at which its terms were explained and discussed. Individual signatures to the contract were taken by the council, totaling 625, or 65.1 percent of the total population of adult members of 960. A certificate attesting to these facts executed by Mr. Mark Mahto, secretary of the tribal business council, and by Mr. Ben Reifel, superintendent of the Fort Berthold Agency, is appended to the contract. The tribal business council witnessed its approval of the contract in Washington on May 20, 1948, in the presence of the Secretary of the Interior, who concurred in its terms. The Chief of Engineers, United States Army, acting for the United States, had (prior to May 20, 1948) formally affixed his signature, and after that date, but before June 1, 1948, submitted the contract to the Congress for ratification. The contract, as required by Public Law 296, sets out the use, distribution, and disbursement of the appropriation of \$5,105,625. Thus, compliance with all the conditions specified by the Congress in Public Law 296 has been effected.

In the course of the contract negotiations, the tribal business council laid claim to financial and other considerations not encompassed by the authority granted by Public Law 296. These additional claims are incorporated in the joint resolution and represent the full scope of the settlement to which the Indians believe they are entitled. The enactment of these sections would constitute a complete and final settlement of all rights, interests, and claims whatsoever of the Three Affiliated Tribes (sec. 9) and would negate the right to bring future suit in the Court of Claims, as authorized by Public Law 296.

The subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, United States Senate, conducted a public hearing on Senate Joint Resolution 224 on June 5, 1948. Counsel of the Three Affiliated Tribes and representatives of the Corps of Engineers and of the Bureau of Indian Affairs were present and testified. This joint resolution, like that now pending in the present session of Congress, contained the text of the executed contract together with supplementary appropriation authorizations. The hearing, which was presided over by Senator Arthur V. Watkins, chairman of the subcommittee, emphasized the desirability of making one final settlement with the Three Affiliated Tribes and not leaving any unsatisfied claim open for future controversy. Senator Watkins thoroughly opposed settlement of the issue by an additional bill, stating that "I want to settle it in this one." The joint resolution was not acted on prior to adjournment, but the discussion at the June 5 hearing stimulated subsequent study by the tribal business council. The joint resolution now under consideration represents the matured claims of the council, developed with the cooperation of the North Dakota congressional delegation, the tribal attorney, and the Indian Bureau.

C. SALIENT FACTS ON THE TAKING OF FORT BERTHOLD LANDS

I. PHYSICAL EFFECTS

In authorizing the construction of the Garrison project, the United States is withdrawing 80 miles of the Missouri River Valley in the Fort Berthold Reservation, incorporating 155,000 acres. This leaves a residual reservation of 430,000 acres for the present enrolled population of 2,215. This withdrawal is the latest in a series of forced takings from the original reservation of 12,500,000 acres set aside for the Mandan, Gros Ventre, and Arikara in 1851. It is a blow that has caused naturally great emotional reaction and anxiety. The land which the reservoir takes is the best land of the reservation. It is the heart of the reservation, fertile, partially timbered, accessible to a shallow water table and the river, and possessing outcrops of lignite. It is the choice area for dwelling and conducting cattle operations. The taking area, in fact, consists of the majority of land on which the Indians live and make their living.

The reservoir as it fills up will not only flood the main valley but also flow into the valleys of the Little Missouri, Shell, and Lucky Mound Creeks, severing the residual reservation into five water-bound segments. This will effectively isolate the residents of each segment, cutting all direct transportation and communication, except by water in the summer months. The segmentation of the physical organization of the reservation forces radical changes in the entire economic, social, and administrative structure.

II. ECONOMIC EFFECTS

The Indians have a cattle herd of 6,839 head which they have increased from 3,141 since 1938. These they graze on a strip of 240,000 acres along and adjacent to the bottom lands which are to be flooded. This low and timbered area protected from the winds affords excellent winter pasture. The loss of the majority of this range will force the Indians to graze their cattle yearlong on the

upland plains which afford few protected areas and enforce a much greater amount of expense of feeding. The whole cattle industry must be reorganized to be adjusted to the separate ranges on the five residual segments.

The reduction of the reservation area will drastically reduce the carrying capacity of the reservation and upset the balance of winter and summer ranges that exists at present. Although the residual reservation will carry the presently owned cattle of the Fort Berthold Indians and allow theoretically an increase of 77 percent, it has not been estimated to what degree this expansion will be limited by lack of practical winter-grazing areas. One hundred and fifty families could operate theoretical cattle herds of adequate size for self-support on the residual reservation, which would take care of 65 percent of the population, exclusive of those who expect to leave the reservation. Little opportunity would be left for livestock production by any of the remainder of the population or future increase.

The timber in the bottom lands provides the house logs, fence posts, and especially the firewood for the Indian population. This inestimable asset will be destroyed by the reservoir. Although there will be compensation for the loss of this resource, there will be little or no lumber and wood supply on the reservation in the future. Many outcroppings of lignite are now utilized for home consumption and for some sale. Whereas there probably exists a potential lignite resource under the residual reservation, its accessibility is not the same as it is in the taking area. Similarly, the underground water sources, easily accessible in the bottom lands, are buried at greater depths and unavailable except at great expense in location and drilling.

The timber- and brush-covered lands along the rivers and creeks being withdrawn for the reservoir are the habitat of deer and other game and the source of many wild foods upon which the Indians have depended for generations. They form an essential part of the food supply of many families and supplement the small cash incomes derived from cattle and seasonal wage work. This very important asset will be lost as the game is driven to other protected areas and the fruit-bearing bushes cleared before flooding.

An integral part of the disastrous effect upon the economy is the effect of the withdrawal of these reservation lands upon land ownership, land use, and particularly the land resources of individual families. The land of the taking area within the reservation is not owned or divided into individual farms or parts of farms as is the rural area outside the reservation. Land on the reservation is owned as allotments by individuals, by heirs who own only interests in allotments, and by the tribes. The land is not used as individual tracts. Much of it is pooled in common community ranges; much of it is idle. Individuals do not farm extensively the allotments they own, but only small plots. Many people live on land on which they have only an undivided interest. Others live on land only by courtesy of relatives, following Indian custom. The greater part of the land is owned by old people who were alive when bottom lands became the first part of the reservation to be allotted. When the land is withdrawn, it will not be a matter of individuals selling their farms or losing their leases and moving to other farms as among the whites, but a problem of a group whose land ownership and use is confusedly and inextricably entwined by Indian custom and the complications of inheritance im-

posed by Federal regulations. The majority of the payments will go to older Indians who will have little interest in reinvesting in other lands. Heirs will receive little with which to reestablish themselves as they are now living. Many will be forced to remove from the lands where they are now living and receive no payments.

The removal will result in a complex relocation program for the entire group and its complete economic and social rehabilitation. It is anticipated that a large number of the relocated families will require support during the period of rehabilitation. In order to accomplish a sound and permanent rehabilitation, any household planning to ranch or farm must be provided with an adequate amount of land. This will require the consolidation of the allotments and scattered interests in inherited allotments into units which can be operated economically and efficiently. Due to the limited amount of land and the topography of the reservation, grazing ranges will have to be established for joint use.

The total economic effect of the withdrawal of the reservation bottom lands for the Garrison project will be to force the Indians from a partial and traditional subsistence economy based on their natural resources to an almost complete cash economy, entailing far greater daily work and expense. The difficulties of this readjustment will be realized only when the Indians come face to face with their new condition. The second over-all effect will be to force the Indians to reorganize the ownership and use of their land holdings in the five residual segments. Funds must be made available either in their compensation or by appropriations to meet these inescapable requirements for temporary support and land consolidation.

III. SOCIAL EFFECTS

The withdrawal of reservation lands required for the Garrison Reservoir forces the break-up of all or part of the nine communities on the reservation. This disruption will have the disorganizing and anxiety-producing effects that a sudden and forced break-up of any long-standing and well-integrated group produces. Some communities may be able to move as groups from the flooded area to new sites on the residual segments, but most of them will be torn apart by households going to their residual or newly consolidated land holdings. Taking people from neighborhoods where strong social relationships and cooperation have been established to settle in new groups where none of these relationships and cooperation have been developed, will deeply undermine their sense of security. The extent of such social disorganization that may occur can be estimated from the fact that 289 households of the reservation total of 357, living in 9 communities, will have to reestablish themselves. Due to the fact that the reservoir will divide many household land units, although not directly affect the homes located on them, some 300 or more households may ultimately have to move.

At least 240 of the 289 households have stated in a house-to-house survey that they plan to remain on the reservation. They will have to move to higher areas, more exposed to the severe winter climate of North Dakota. The fertile soil and natural resources to which they have accommodated themselves on the bottom lands, will not be at hand. This change will have a poor social and psychological, as well

as economic, effect. These social changes will also have their influence upon the rapidity and success of the economic rehabilitation of the people. Social rehabilitation will, in fact, become as much a problem to meet as will economic rehabilitation.

The Fort Berthold Indians comprise three tribes, Mandan, Gros Ventre, and Arikara. These tribes have lost much of their significance as separate social units of the reservation. The segmentation of the reservation may serve to strengthen tribal ties by isolating members, especially the Arikara, on separate segments. However, this isolation will also serve to separate the Indians from the far more important political unification of the Three Affiliated Tribes which they have organized under a constitution and bylaws authorized by the Indian Reorganization Act of 1934. This organization provides a tribal business council which directs the political affairs of the people, manages the tribal property and funds, and through a charter, promotes the individual and group agricultural enterprises of the people. The loosening of this organization by the physical separation, and the inability of the council to communicate and meet freely will undoubtedly create a serious handicap to the economic and social development which the Three Affiliated Tribes have manifested in the last 12 years. These Indians form a social, cultural, and racial group within their region of the State and in the State of North Dakota. They will maintain organizations and separateness on this basis whether or not it is recognized in formal organization. The set-back that will occur to the functions of their present organization by the physical breaking up of the reservation will be serious and cannot be underestimated.

These Indians still retain the most important symbols of their native religion, and some of the religious organizations and keepers associated with them. The native religion has been decreasing in significance and active participation in ceremonies is relatively slight. However, the people as a whole have not abandoned their belief in this religion, in the meaning of the sacred shrines and heirlooms, or, especially, in the supernatural powers of this sacred equipment. The removal of shrines, changes of location of the equipment, and break-up of organizations and clans imposed by the removal of the Indians, will have a significant effect upon the Indians' morale, because of the sacred power these hold. Shrines will have to be replaced. There are also several monuments associated with tribal history and structures on the reservation all located in the Taking Area and requiring reerection.

The Taking Area contains 18 official cemeteries with over 1,600 graves, including the Scout Cemetery, a national monument, and four tribal monuments. Uncounted family cemeteries and graves also lie within the Taking Area. The remains in these graves must all be disinterred and reburied in reestablished cemeteries in the residual areas.

IV. EFFECTS ON ADMINISTRATION

The Fort Berthold Agency, with its offices, employees' quarters, boarding-school classrooms, and dormitories, hospital and maintenance shops at Elbowoods, will be completely wiped out by the Garrison Reservoir. Seven community day schools and two farm agent's stations also lie in the reservoir site. The loss of the administrative plant will disrupt the administrative, educational, health, and agri-

cultural extension services. They cannot be replaced as they now exist in the future divided reservation, constituting a loss to the Indians' present way of life. The complete abolishing of the administrative plant creates an opportunity for reestablishment of a modern and efficient administration, but this cannot function as effectively under the decentralized situation created by the division of the reservation into five separate parts with which direct travel and communication is lost.

Every segment in which a number of Indians reside will become in part an administrative entity. Contact with any central agency will be maintained only by long and circuitous travel. Direct contact by the central officers of the reservation with the people themselves, highly essential to their administration and social and economic development, will be greatly reduced.

One effect of the division of the land and people and decentralization of administration, forced by the withdrawal of land from the heart of the reservation, will be to thrust the people into closer relationships with the neighboring off-reservation population and State and county offices. This will have the salutary effect of stimulating Indian assimilation and participation in State affairs. Yet, in order to bring about long-term closer association, there are official and unofficial social barriers which the Indians must overcome. People of different races and social backgrounds living in close proximity are usually charged with greater racial prejudices than if they were separated by some distance and had few personal relationships. Already the Indians and Indian Bureau have experienced definite opposition from local non-Indians and local government departments to Indian participation. Governmental groups and taxpayers fear that acceptance of Indians into social and public institutions will be accompanied by the obligation of the costs, which Indians do not pay if such costs are paid for by land taxes. Even though such costs can be paid by means of Federal contracts, this opposition still functions against the full or large transfer of Indian administration to State and county departments. Some Federal administration must be carried on at least for the relocation and transitional period following the withdrawal of the reservoir site, and this administration will be handicapped by physical effects of the withdrawal.

V. SUMMARY

The salient facts of the withdrawal of land through the middle of the reservation are:

1. That the reservation will be divided physically into five segments, which imposes severe hardships and disorganization upon individuals and families and upon the economic, social, and administrative organization of the Fort Berthold Indians.

2. That the loss of 155,000 acres of their best land creates a severe economic loss in natural resources which cannot be replaced and which imposes limitations on economic development.

3. That the withdrawal of lands and dividing of the reservation create severance or an additional loss by reducing the value of the residual reservation.

4. That at least 289 of the 357 households of the reservation will have to remove, imposing not only the economic and social reestablish-

ment of individual families, but their reorganization in economic enterprises, social groupings, and communities.

5. That the religious life and organization will suffer impairment and that over 1,600 graves in 18 cemeteries, together with the shrines and monuments of the tribe, will require complete removal.

6. That the political and economic organizations which have instigated much recent social and economic development toward tribal and individual self-sufficiency will be greatly impaired and curtailed in effectiveness.

7. That the facilities of the Federal administration will be entirely wiped out, requiring replacement and reorganization.

8. That the preeminent effect will be that the withdrawal of land from the reservation imposes losses that affect the Indians as an economic, social, political, administrative, and religious group, which are over and above the losses that they will suffer as individuals or by families.

These losses, such as the disruption of present land ownership and use pattern, the redistribution and consolidation of lands in order that the people can become rehabilitated economically, enforced by such disruption, and the breaking up of the communities or villages with their established community life, cannot be compensated for merely by payments on an individual or tribal basis for material wealth that is being lost. The taking of 155,000 acres of land has created the taking of many other and more valuable things from the Indians. It is to replace these, as far as possible, in order that life may be reorganized and continued, that additional compensation must be requested of the Congress.

**D. SUMMARY OF PROVISIONS CONTAINED IN CONTRACT EXECUTED
MAY 20, 1948**

I. GENERAL SUMMARY

The contract of May 20, 1948, is based on the appropriation of \$5,105,625 contained in Public Law 296 and provides for three classes of expenditure to be determined by special procedures, namely, (1) for payment of the fair market value of tribal and allotted lands, (2) for payment of cost of removing the Indians from the reservoir taking area, and (3) for payment of cost of removing cemeteries. If these three costs, when determined, are less than \$5,105,625, the Indians are to retain the unexpended balance as tribal funds; if these three costs, when determined, exceed \$5,105,625, the United States is committed to appropriating the deficit.

The Commissioner of Indian Affairs is made responsible for (1) making the necessary appraisals, (2) preparing a plan for removing the Indians, (3) preparing a plan for removing the cemeteries, and (4) preparing a plan for the use of the shore line of Garrison Reservoir within the reservation. If and when the appraisals and these respective plans are approved by the Army Chief of Engineers, the Commissioner is made responsible for the administrative execution thereof. If the Indians reject the appraisals placed on any or all of their lands, their right to seek judicial determination thereof in the Federal courts is reserved to them.

Proceeds received by the tribes for tribal lands are to be held in trust, but may be expended to acquire lieu lands or other tribal prop-

erty. Proceeds received by individual members of the tribes are to be deposited in individual Indian money accounts at the Agency, and expenditures therefrom are to be made by the Superintendent under special regulations of the Secretary of the Interior.

The Indians may salvage standing timber free of charge until October 1, 1950, and their improvements until October 1, 1952. The Indians' hunting and trapping rights within the Garrison taking area are reserved, but they consent to having the fishing regulations established for Garrison Reservoir apply to them. Their interest in any subsurface values discovered in the future is reserved. The contract, when ratified, constitutes a conveyance of the fee titles to the United States. By a special provision the Indians reserve the right to seek additional compensation through petitioning Congress or filing suit in the Court of Claims.

II. DETAILED ANALYSIS

1. *Reservation of right to claim additional compensation.*—By article I, the Three Affiliated Tribes reserve the right to pursue further their claims against the United States by petitioning Congress for additional compensation or by filing suit in the Court of Claims under Public Law 296, or both. This article must be read in conjunction with section 9 of the joint resolution (p. 74) which provides that in consideration of the conditions, requirements, and appropriations set out in the resolution, complete and final settlement of all rights, interests, and claims whatsoever of the Three Affiliated Tribes on account of the construction of the Garrison Dam and Reservoir project will be required. Adoption by Congress of the joint resolution as submitted would nullify that portion of Public Law 296 under which the tribes were authorized to bring suit in the Court of Claims.

The decision of the tribes to seek full settlement of all their claims at this time is expedient. The far-reaching effects of the taking of their lands and homes for the Garrison Reservoir are to be experienced in the immediate future. The need for assistance is immediate. A judicial determination of their claims would involve unpredictable delay. There might be a question of whether the real needs of the tribes, directly caused by the taking of their lands, could be made the legal basis of an award. A far more satisfactory and equitable course in dealing with these tribes is to make a complete settlement prior to, rather than after, consequences of the Garrison taking are inflicted.

2. *Description of taking.*—Part A of article II describes the taking line of the Garrison Reservoir within the Fort Berthold Reservation, embracing an area of 175,716.44 acres, from which are excepted certain patented lands totaling 20,804.83 acres, the total net taking of Indian lands being stated to be 154,911.61 acres.

By part B of the article, certain isolated Indian tracts, totaling 543.89 acres, located in the "ceded" portion of the reservation, are described and included in the taking. By part C certain Indian-owned townsites in Van Hook and Sanish, N. Dak., are described and included in the taking. By part D, certain "public reserves" in the townsites of Sanish and Van Hook, N. Dak., believed at the time of preparing the contract to be colored with Indian interest, are described and included in the taking. By part E, certain patented lands in the taking area, totaling 2,881.33 acres, in which coal rights are reserved to the tribes, are described and included in the taking.

The Indian land taking is thus described by a process of delineating the taking line and by excepting from the taking area thus established the patented or nontrust lands located therein. The statistical reflection of this process, as stated in the contract, indicates that a total of 154,911.61 acres of Indian tribal and allotted land within the Fort Berthold Reservation is in the taking area. To this must be added the smaller areas described in parts B, C, and D, and the coal rights described in part E. The determination of the acreage contained in the contract is based on aerial flights of the Army in 1940. The actual area taken may vary slightly from that described in the contract because of the constantly shifting shore line of the Missouri River.

3. *Distribution of fund of \$5,105,625 and limitations on the use thereof.*—By article III, the appropriated fund of \$5,105,625 is made subject to disbursement by the Commissioner of Indian Affairs for three purposes: (a) Payment for tribal and allotted lands and values above and below the surface; (b) costs of relocating and reestablishing Indians who live in the taking area; and (c) costs of relocating and reestablishing Indian cemeteries, tribal monuments, and shrines in the taking area (sec. 1). The cost of relocating Government-owned structures is excluded from payment out of the appropriated fund (sec. 2): No expense of any Government agency in carrying out the contract is chargeable to the appropriated fund (sec. 3). If the three enumerated kinds of disbursement, when determined, total less than \$5,105,625, the tribes are to retain the unexpended balance as tribal funds (sec. 4). No part of the appropriated fund may be used to pay for the lands and improvements belonging to any church, mission, or missionary society, or to any person not a member of the tribes (sec. 5). The decision of Congress to recognize that the mere payment of the fair market value of Indian lands for public projects is insufficient and that the costs of removal are properly a charge against the United States represents a welcome change of policy in dealing with situations of this kind. In previous Indian land takings for public purposes, failure to provide funds for removal costs has caused acute distress and contributed to serious retrogression of Indian economic progress. It seems also proper that the costs of relocating Government-owned buildings, roads, etc., should not be charged to the appropriation of \$5,105,625 which specifically appropriated the said sum to the Three Affiliated Tribes and made no mention of the costs of relocating Government-owned structures. By the same reasoning, it is proper to exclude payment for governmental expenses incurred in carrying out the contract. The provision by which the tribes retain any unexpended balance remaining in the appropriation after the three enumerated purposes are satisfied is less justified when considered in connection with sections 2 to 10 of the joint resolution. Yet, the section is wholly consistent with Public Law 296. Tentative estimates indicate that the total of the three costs authorized by the contract will at least equal and probably exceed the appropriated amount.

4. *Appraisal of tribal and allotted lands.*—By article IV, responsibility for appraising the Indians' lands is imposed on the Commissioner of Indian Affairs, but the schedule thereof must be transmitted to the Chief of Engineers for his approval (secs. 1 and 2). The appraisal must be based on the fair market value of the lands and improvements, including the elements of value relating to individual tract severance

damages, standing timber, and mineral rights. On approval by the Chief of Engineers, the appraisal schedule must be presented to the tribal business council in its entirety, and such portion of said schedule as relates to the respective interests of any individual allottee or heir must be presented to the latter. Within 90 days after such transmittal, the council and any individual allottee or heir may present to the Commissioner their objections, if any, for consideration (sec. 2). If any part of the appraisal is finally rejected, the Department of the Army is obliged to bring suit in the United States District Court for North Dakota (sec. 3), and in any such proceeding the Commissioner of Indian Affairs is required to supply the Indian litigants with legal counsel, if so requested (sec. 4).

During the course of the contract negotiations the Acting Commissioner of Indian Affairs personally dissented from the proposal to make the Commissioner responsible for the preparation of the appraisal schedule, because he felt that this duty more properly reposed in the Corps of Engineers as the taking agency. He concurred in section 1 of article IV only on the urgent request of the tribal business council and upon the request of the Corps of Engineers. It would be more equitable for the lands and improvements to be appraised on a replacement-value basis because of the present inflation of materials prices and because of the difficulty of acquiring substitute lands at market values. However, the principle of replacement cost is not accepted in eminent-domain proceedings, and the Corps of Engineers would not accede to its use as a basis for appraising the Indians' holdings in the Garrison taking area. It is believed that the constitutional rights of the Indians are fairly protected in reserving to them the right to reject the appraisals place on their lands and to seek judicial determination thereof. It also seems appropriate that counsel should be supplied for such Indians who exercise this privilege.

5. *Removal of Indians from taking area.*—By article V the Commissioner of Indian Affairs is required to prepare a plan for the removal, relocation, and reestablishment of the Indians, together with cost estimates thereof, including therein, but not restricted to, the cost of transporting the Indians to their new locations, the cost of transporting the Indians' household goods, farming equipment, livestock, and other property, the cost of developing domestic and livestock water supplies on the residual reservation, and the cost of dismantling, transporting, and reerecting salvageable buildings and improvements. On approval of the plan by the Chief of Engineers, the Commissioner is designated to carry it out (sec. 1). It is also provided that the Chief of Engineers will prepare a schedule for clearing the Garrison Reservoir right-of-way and that the said schedule shall be jointly reviewed by him and the Commissioner of Indian Affairs annually to consider changes proposed by either party. Responsibility, however, for determining changes in the clearance schedule is reposed exclusively in the Chief of Engineers. It is stipulated that the clearance schedule will provide for systematic clearing of the right-of-way by succession of segments (sec. 2).

Implementation of this article should be completed by the spring of 1950 so that removals might begin in the summer of that year, be continued in the summer of 1951, and be completed in 1952. The Indians' personal, family, community, and tribal plans must be ascertained at the earliest possible date after approval of the contract.

Surveys of the land and water resources of the residual segments, together with the selection of home sites, must be undertaken. The land-consolidation program must also be instituted simultaneously. Preliminary, though necessarily tentative, studies are already under way by the Missouri River Basin investigation staff of the Indian Bureau.

6. *Relocation of cemeteries, monuments, and shrines.*—By article VI the Commissioner of Indian Affairs is designated to prepare a plan and cost estimates for relocating and reestablishing Indian burial graves, tribal monuments, shrines, and other facilities, to transmit the same to the Chief of Engineers, and, upon approval by him, to carry out the plan (sec. 1). It is provided that new sites for the reestablishment of these facilities shall be acquired out of the proceeds from the taking of present sites in the taking area and that titles to new sites shall be of like character as exist for the sites which are to be taken for Garrison Reservoir (sec. 2). Insofar as practicable the removal plan is to be carried out by and through the interested churches, heirs, allottees, Council, or keepers of a particular shrine. The removal plan must provide for the employment of Indians and for tribal and religious services. In the event there is no party interested in a particular removal, the Commissioner is authorized to assume any necessary responsibility (sec. 3).

There are 18 separate cemeteries containing over 1,600 graves and an undetermined number of scattered family burying grounds in the taking area. All the cemeteries are denominational, except one. Of the 18 cemeteries, 7 are located on allotted lands, 7 on lands deeded to churches, 1 on a national monument, 1 on a tribal reserve, 1 on land deeded to the United States for this purpose, and 1 on fee patented land. The tribes as such have a direct interest in the Scout Cemetery located on a national monument, four tribal monuments, and one tribal flour mill. An estimate of the cost of carrying out the provisions of this article cannot be made without a detailed survey and will depend on various factors: the time necessary to locate, identify, and disinter the remains; the kind and quality of reinterment casket; the difficulty and time required to open new graves; the distance between old and new sites; and the removal and reestablishment of head markers and other gravestones. The over-all administrative cost (not deductible from the fund of \$5,105,625) could be considerable. At the hearings of the Senate Subcommittee on Appropriations on the 1948 Civil Functions Act, Gen. R. A. Wheeler stated that the Corps of Engineers had estimated the cost at \$255,000.

7. *Use of proceeds from taking of tribal lands.*—By article VII proceeds from tribal lands and interests under the contract are to be held in trust by the United States and may be used to acquire land or other tribal property, or for such other purposes as may be determined by the council with the approval of the Commissioner of Indian Affairs. Lands so acquired are to be held "as other tribal lands" and are to be "inalienable and nontaxable until otherwise provided by Congress, notwithstanding any other restrictions on the purchase of land under any other law."

Under this article responsibility for determining the disposition of tribal proceeds is vested in the tribal business council; the power of the Commissioner of Indian Affairs is limited to vetoing council

decisions. This is a desirable step in the direction of transferring responsibility to the Indians.

The second sentence of article VII, beginning on line 10, of page 60, provides that all lands acquired by the tribes with contract proceeds "shall be inalienable and nontaxable until otherwise provided by Congress." The intent of this language is to insure that tribal lands so acquired shall be held as other tribal lands, but by strict interpretation of the specific language, especially in the use of the term "inalienable," it is probable that some doubt would exist as to the power of the tribes to sell such lands to individual Indians or effect exchanges of such lands, without special congressional sanction. The same criticism lies also against similar limiting language in article VIII, section 3. It is recommended that this technical defect in articles VII and VIII be corrected by adding the following section to the joint resolution:

SEC. 12. Lands or interests in lands acquired pursuant to article VII or article VIII of the contract set forth in section 1 of this joint resolution may be sold to or exchanged with the Three Affiliated Tribes or members thereof, or may be exchanged with other persons, in the manner now or hereinafter authorized by law for the sale or exchange of lands owned by such tribes or members thereof.

The final clause of article VII, "notwithstanding any other restrictions on the purchase of land under any other law," beginning on line 13, of page 60, is intended to free the tribes from any statutory limitation on the purchase of lands which has been, or may in the future be, enacted, prohibiting the purchase of lands which would become nontaxable. It is believed that the Congress should approve this guaranty to the Fort Berthold Indians because of the special circumstances arising out of the taking of their existing tribal lands for the Garrison project.

8. *Use of proceeds from taking of allotted lands.*—Under article VIII proceeds received by individual Indians under the terms of the contract are to be deposited in their "individual Indian money" accounts (sec. 1). Expenditures from such accounts are to be made by the superintendent of the Fort Berthold Reservation under regulations to be promulgated by the Secretary of the Interior or by his duly authorized representative. Under such regulations the superintendent may disburse individual proceeds directly to nonresident members of the tribes and to such other members who do not require supervision. The individual proceeds may be disbursed for purchase of new lands, homes, or other property (sec. 2). Lands acquired with such proceeds are to be taken in the name of the United States in trust for individual Indians and shall be "nonalienable and nontaxable until otherwise provided by Congress" (sec. 3).

Article VIII provides a substantial degree of decentralized administration in the disbursement of individual proceeds. This is desirable and in line with sound policy. Under the terms of the article a considerable number of beneficiaries will receive their proceeds immediately and in cash.

The limitation on the status of lands acquired with individual proceeds as to their inalienability should be corrected by the joint resolution. It is intended that such lands should be held as other allotted lands, but under section 3, such lands could not be exchanged and disposed of under the general Indian land laws without authority of Congress. A suggested section in the joint resolution to cure this defect is included in the foregoing item 7.

9. *Conveyance of Indian titles to the United States.*—Under article IX approval of the contract by the council and by a majority of the adult members of the tribes and its enactment into law, constitutes a relinquishment and conveyance to the United States of all lands, rights, and interests by the tribes as to tribal lands and by allottees and heirs as to allotted lands, vesting title thereto in the United States.

Approval of the council and of a majority of the adult members of the tribes has been formally given in accordance with the procedure and conditions stipulated in Public Law 296. (See above under B.)

The omnibus transfer of titles, as provided in article IX, will obviate the necessity of much paper work in the Bureau of Indian Affairs and the Corps of Engineers. Appropriate entries will have to be made, however, on the records of the Indian Bureau and of the Bureau of Land Management.

10. *Rights of Indians to use of Garrison Reservoir shore line.*—Under article X the Commissioner of Indian Affairs is required, within 2 years from the date of the contract, to present to the Chief of Engineers for his approval a plan for the grazing of livestock between the taking line and the actual water line of Garrison Reservoir, based on the fullest development of the residual reservation for livestock. Areas so reserved under the plan may not be reduced or changed except with the consent of the Commissioner and approval of the council. The council may promulgate rules and regulations for the utilization of the reserved areas (sec. 1). The Chief of Engineers may advise the Commissioner to eliminate any feature from the plan which would interfere with the operation of the Garrison project. The right of the Three Affiliated Tribes to such designated areas is made prior to their use for park, recreational, or wildlife conservation purposes under other statutes (sec. 2). The council commits itself to cooperate with North Dakota in the conservation, development, and utilization of the wildlife resources of the taking area, but the tribes reserve their hunting and trapping rights therein, as established by treaty, including the right to issue hunting and fishing licenses under tribal regulations. The right to fish in Garrison Reservoir is to be governed by rules and regulations of the Chief of Engineers, but the tribes and the members thereof do not have to pay any license fee therefor (sec. 3). The tribes reserve the right for their members (under terms and conditions determined by the council and in accordance with plans approved by the Chief of Engineers) to establish boat harbors, wharves, and recreational areas in the taking area, provided such privileges are not made available to nonmembers except in accordance with regulations and schedules of rates approved by the tribes with the concurrence or approval of the Chief of Engineers.

The reservation of shore line grazing rights to the Fort Berthold Indians is eminently justified. The tribes are to be deprived of their river bottom lands and access to the Missouri River and its tributaries for the watering of livestock. It is reasonable to insure their access to Garrison Reservoir as a substitute, especially in view of the fact that the Indians' economy is so largely based on the raising of livestock. It is also reasonable that the Indians' economic needs should have preference in the use of the taking area. However the article, as written, allows latitude for adjusting the Indians' economic interest with recreational, park, and conservation interests, in the drafting of the plan to be prepared by the Commissioner of Indian Affairs.

The Indians retain their treaty hunting and trapping rights as presently established but tacitly surrender their treaty fishing rights in Garrison Reservoir. The latter concession is proper and in the interest of protecting any program which may be established for stocking the reservoir. The other privileges extended to the tribes and their members as to building boat docks, et cetera, recognizes the fact that such facilities will be necessary because of the segmentation of the residual reservation.

11. *Salvage of improvements, timber, etc.*—Under article XI the tribes and members thereof may salvage their improvements from the taking area at least until October 1, 1952, subject to the condition that the district engineer, Garrison district, shall serve notice of his intent to begin clearing operations at least 3 months prior thereto. No deduction from the appraisal is to be made on account of the removal of improvements (section 1). The Indians may also salvage timber, sand, and gravel until at least October 1, 1950, similarly without any deduction of the value thereof from the appraisal, and with a similar condition as to the giving of 3 months' clearance notice (sec. 2). They may salvage lignite until the date fixed for impounding the water of Garrison Reservoir (sec. 3). The district engineer is required to give 6 months' notice of the impoundment date, and no damage for loss of life or property due to such impoundment may be claimed on or after the date so specified, but the said date is not to be earlier than October 1, 1952.

The salvage privileges established by article XI are generous. When the final dates were fixed in the contract negotiations, it was believed that ratification would take place in the Eightieth Congress. If ratified by June 1, 1949, only 17 months will be available in which to take advantage of the privilege of salvaging the standing timber, embracing only one winter season. It is believed that insufficient time will thus be allowed in which to undertake effective and economic salvage operations.

12. *Discovery of future subsurface values in taking area.*—Under article XII, if, in the future, subsurface values are discovered in the taking area, the tribes will be entitled to a royalty of one-eighth of the money received for oil and gas extracted. Any such royalty is to be deposited to tribal funds or paid to allottees or heirs as their interests now appear.

A technical defect in article XII would be corrected by section 10 of the joint resolution, at line 21 of page 74. This correction would extend the application of the article to all minerals, not merely oil and gas.

13. *Payment of possible deficit under contract.*—Article XIII provides that the contract is entered into on the understanding that the cost of carrying out its terms should be met by appropriations for the Garrison project, and that, if \$5,105,625 is insufficient, such additional sum or sums as may be necessary will be made available from appropriations for Garrison Reservoir.

The contract is based on the theory that the appropriation of \$5,105,625 is sufficient to pay for the appraised value of the tribal and allotted lands and improvements to be taken for the Garrison Reservoir and for the costs of relocating and reestablishing the Indians themselves, as well as for the relocating and reestablishing of Indian cemeteries, monuments, and shrines. It is provided, however, that

if these costs, when determined in accordance with the terms of the contract, shall prove to be less than \$5,105,625 the tribes will retain the unexpended balance as tribal funds (article III, section 4). On the other hand, if these costs, when determined, shall prove to be in excess of \$5,105,625, such additional sum or sums as may be necessary will be made available from appropriations for the construction of Garrison Reservoir (article XIII). The inclusion of this formula is justified because the estimate of \$5,105,625 was unilaterally determined by the taking agency, the Corps of Engineers, without the concurrence or acceptance of the Indians; because the said estimate was based on gross appraisals; and because the value of lands has markedly risen since 1946, the date of the Corps' appraisal survey.

14. *Miscellaneous*.—Article XIV is a standard provision required by law in all Government contracts. Article XV stipulates that the contract shall not become effective until it has been ratified by a majority of the adult members of the tribes, by the council of the tribes, and by the Congress.

E. ADDITIONAL COMPENSATION AND OTHER CONSIDERATIONS SUPPLEMENTARY TO THE CONTRACT OF MAY 20, 1948, CONTAINED IN JOINT RESOLUTION

1. LAND READJUSTMENT FUND (SECS. 2 AND 3)

Sections 2 and 3 of the joint resolution both deal with the establishment and operation of a "land readjustment fund."

Section 2 authorizes an appropriation of \$3,000,000 to establish a land-readjustment fund for use in consolidating the land holdings of the Three Affiliated Tribes and in purchasing land for needy members thereof. The fund is to be administered by the Commissioner of Indian Affairs and its operation terminated at the end of ten years. Any unexpended balance in the Fund at the end of the 10-year period is to be returned to the Treasury and any land which has not been deeded to members shall be held by the United States in trust for the tribes and shall be nontaxable and nonalienable until otherwise provided by Congress. Section 3 elaborates the purposes and operations of the fund. It is to be operated to consolidate the lands on the reservation into economic use units. Allotted, inherited and unrestricted lands, as well as interests in lands and improvements, may be acquired by purchase or exchange by the fund which can, through sale or exchange, dispose of such lands to individual Indians. Proceeds derived from the Garrison land taking may be used by individual members of the tribes to buy from the fund, lands acquired by the fund. To care for needy members, the fund may take lands in tribal ownership for assignment to such persons.

The establishment of a mechanism to bring about land ownership consolidation on the residual Fort Berthold Reservation is a sine qua non of a successful removal of the Indians from the Garrison taking area.

Allotment of the Fort Berthold Reservation began in 1895. Ninety percent of the allotments made in that year, numbering 949, were selected on the bottom lands adjacent to the Missouri River. Between 1910 and 1915, 765 more allotments were made in intermingled locations with the first schedule of 1895. Supplemental allotments to the

number of 1,133 were made between 1912 and 1915. Finally, between 1923 and 1929, 556 allotments were made in the southeastern part of the reservation (generally uplands).

This application of allotment to the Fort Berthold Reservation has created the following conditions: (1) Approximately 50 percent of the allotted lands are in heirship status, but 75 percent of the bottom lands (largely allotted in 1895) are in that status. These are precisely those lands which lie within the Garrison right-of-way. (2) Most individual Indians today have interests within two and sometimes three of the four allotment groups, and most families have interest in all four. (3) While the allotments are scattered throughout the entire area of the reservation, the family groups have, through one means or another, located their homes on the bottom lands, i. e., within the Garrison right-of-way. (4) Through scatteration and fractionization of the individual holdings, it has been difficult for the Indians to use their lands themselves, with the result that 340,000 acres are being leased or permitted to non-Indians. (5) In spite of the pattern of allotment, the Indians have succeeded in building their economy on a strip of 241,000 acres on both sides of the river. From this strip, Garrison will take out the heart—155,000 acres. (6) For each acre of allotted land owned in the Garrison right-of-way, the Fort Berthold Indians own 3 acres on other parts of the reservation. (7) No individual, or family, will have sufficient compensation for lands taken in the right-of-way to acquire a new farm or ranch unit, unless the value of the lands owned outside of the right-of-way can be realized, or unless land holdings can be consolidated. (8) Removed Indians will not be able to establish satisfactory farm or ranch units on the residual reservation unless an extensive reservation-wide program of exchange and reconsolidation is undertaken.

The only practical approach to this problem is the creation of a land readjustment fund which would be operated for the following purposes: (1) To purchase lands in the residual reservation from Indians who want to relocate outside of the reservation. By adding compensation received for the taking of land in the reservoir right-of-way to the proceeds derived from the sale to the fund of land in the residual reservation, an Indian family would have more adequate means of buying a new farm or ranch or of going into some other economic enterprise. (2) To purchase lands in the residual reservation either from Indians or white patentees in order to block up consolidated, family-size, economic units for farm or ranch purposes. (3) To acquire tribal lands for assignment to landless Indians who must remove from the right-of-way. (4) To sell or exchange acquired lands to Indians or whites.

Over the entire period of its operation, the appropriation for the land readjustment fund would suffer diminishment on account of (1) the acquisition of lands which could not be disposed of to individuals, and hence retained in tribal ownership, (2) purchases of tribal land for needy members of the tribes, and (3) the costs of operating the fund.

The proposed appropriation of \$3,000,000 would be about adequate to establish a land readjustment fund for the necessary purposes described above. For the most part this sum would be used to acquire various categories of land within the reservation boundaries

as a stock from which sales and exchanges would be carried on, creating economic farm and ranch units to be held under newly issued trust patents. The fund could also be used to acquire low-grade allotted lands which can be effectively utilized only in large blocks as community pastures. An estimate of expenditures from the fund is as follows:

(1) Purchase of improved patented lands in the residual segments of the future reservation: 44,130 acres at \$25 per acre-----	\$1, 103, 425
(2) Purchase of trust allotments and heirship interests from non-resident Indians: 36,128 acres at \$15 per acre-----	541, 920
(3) Purchase of trust allotments and heirship interests from Indians who move away from the reservation: 53,600 acres at \$15 per acre-----	804, 000
(4) Purchase of trust allotments and heirship interests which are uneconomical in individual ownership; lands to be used as community pastures: 50,000 acres at \$10 per acre-----	500, 000
(5) Administration: Expert field and clerical personnel expense to effect land acquisitions, consolidations, appraisals, records, and clearance of work, for 10 years-----	150, 000
Total-----	3, 099, 345

II. SUPPLEMENTARY APPROPRIATION OF \$6,500,000 (SEC. 4)

Section 4 authorizes an appropriation of \$6,500,000 to the Three Affiliated Tribes to compensate them for the following claims growing out of the construction of the Garrison project:

- (a) For all breaches of the treaty of September 17, 1851;
- (b) For the abrogation of section 5 (e) of article VI of the constitution and bylaws of the tribes adopted in accordance with the Indian Reorganization Act of 1934;
- (c) For disruption of their economic, social, religious, and community life;
- (d) For reducing them to the condition of "displaced persons";
- (e) For the destruction of their basic industry (livestock);
- (f) For the intangible costs of relocation and reestablishment of a sound economic base for the future of the tribes and adjustment to new fields of endeavor.

The section rests on the proposition that none of the injuries covered by the foregoing claims is compensated for by the appropriation of \$5,105,625 discussed previously. The appropriation of \$6,500,000 is to be credited to the Three Affiliated Tribes, to draw 4 percent interest, and to be available for expenditure by the council with the approval of the Commissioner of Indian Affairs.

The justification for the payment of the additional sum of \$6,500,000 provided for in section 4 falls into three general categories, namely, (1) compensation for tangible losses of property not covered by the contract appropriation of \$5,105,625, (2) compensation to defray the costs of meeting social needs arising out of the Garrison land taking, and (3) compensation for intangible damages.

1. Compensation for tangible losses of property not covered by the contract appropriation of \$5,105,625.—Section 1 of article IV of the contract of May 20, 1948, provides that the Indians' lands and improvements shall be appraised at the "fair market value." In following the customary interpretation of this language, it is certain that the compensation to be paid under the contract will not be sufficient to

cover all of the tangible values that will be taken. At least three such kinds of values for which compensation should be made to the tribes may be conservatively estimated, as follows:

(a) *Compensation for the loss of the future supply value and supplemental value of the standing timber, not covered by the contract appraisal.*—Under article IV, section 1, of the contract, the Fort Berthold Indians are to receive the appraised value of standing timber on a fair market-value basis. Payment on this basis does not represent the real tangible value for its future supply utilization, as well as for its continued use year after year for house logs, fuel, and fence posts. The economic function of the timber stand in the life of the tribes makes it far more valuable for these uses than is represented by its fair market value. With the taking of the bottomlands, the timber stand will be irretrievably lost. The timber within the taking area furnishes the proper environment for recreational areas for the Indians, for wildlife habitat and for many fruits, such as June berries, wild plums and grapes, choke cherries, and buffalo berries. The timber also moderates the local climate and furnishes protection to the Indians and their livestock.

The Fort Berthold Indians are entitled to participate in the stumpage values which would be almost sure to increase as the supply of local timber decreases. It will be necessary in the future to secure timber products from a distance with much higher transportation charges. The Indians have a right to anticipate these future supply values which are inevitable. The taking of their land deprives them of the opportunity to realize the benefits of future increased values.

In addition to the increase in the value of the merchantable timber, the natural reproduction, which will produce merchantable material in a few years, has a substantial value comparable to the capitalization of the cost of a forest plantation. The Indian Service authorizes a valuation of \$3 to \$4 per acre for young hardwood growth. This valuation might be reduced on the Fort Berthold Reservation since some of the larger young growth suitable for fence posts will be included in the appraisal of the fair market value of the standing timber.

These future supply and supplemental values are estimated as follows:

20,000 acres timber, at \$2 per acre, future supply value.....	\$40,000
20,000 acres timber, at \$2 per acre, young growth value.....	40,000
20,000 acres timber, at \$2 per acre, recreation value.....	40,000
35,000 acres timber and brush, at \$2 per acre, wildlife habitat value...	70,000
35,000 acres timber and brush, at \$2 per acre, wild fruit value.....	70,000
35,000 acres timber and brush, at \$2 per acre, protection value.....	70,000
Total.....	330,000

(b) *Compensation for the factor of irrigability of certain lands in the taking area, not covered by the contract appraisal.*—The appraisal of lands, to be undertaken under article IV of the contract, will not include any claim for compensation on account of potential irrigability of certain lands within the taking area. However, in 1942 the Bureau of Reclamation made a survey of irrigable potentials of the Fort Berthold Reservation (report on Missouri River investigations, North Dakota, South Dakota. Missouri-Souris project and potential units, investigations report No. 66). This report and subsequent surveys of the Bureau of Indian Affairs substantiated the fact that

the following acreage is suitable for irrigation and meets all the necessary requirements:

	Acres
Shell Creek unit.....	4, 500
Independence unit.....	4, 130
Fort Berthold unit.....	9, 400
Old Agency unit.....	6, 510
Total.....	24, 540

Questions of soil adaptability, water rights, topography, and feasibility have been determined and conclusions are that irrigation of these lands, to be taken from the Fort Berthold Indians for Garrison Reservoir, is practical. It is estimated that the irrigable potential increases the value of these 24,540 acres by \$10 per acre. This would result in an amount of \$245,400.

(c) *Compensation for the severance of the Fort Berthold Reservation into five residual segments through the taking of the reservation's bottom lands.*—Although damages for the severance of individual tracts of land are provided for in article IV, section 1, of the contract, no compensation is provided therein for the severance of the reservation as a whole. It must be remembered that the original Fort Berthold Reservation contained 12½ million acres and that it was successively reduced to its present boundaries by a series of statutes and Executive orders. The Garrison Reservoir will take the best of the lands remaining in the ownership of the tribes—the heart of the reservation. The bottom lands to be taken represent a complex of valuable characteristics—shelter for homes and livestock, easily developed water, winter pasture, plentiful wild-fruit supply, and game in abundance. Taken in conjunction with the upland range, an almost perfect balance of lands exists in the present reservation. The lands remaining on the reservation will have a definite diminished value. But no account is taken of this fact in the settlement provided by the contract. An estimate of this uncompensated loss is as follows:

Value of reservation before taking: 583,283 acres (excluding 9,439 acres accreted lands) at average price of \$25 per acre.....	\$14, 582, 075
Value of remainder after taking: 437,024 acres at average price of \$18 per acre.....	7, 866, 432
Total damage.....	6, 715, 643
Minus estimated appraised value.....	4, 000, 000
Total severance damage.....	2, 715, 643

The per acre values used in the above calculation are based on current land sales in the area.

2. *Compensation for meeting the costs of social needs arising from the social and economic disruption of life of the Three Affiliated Tribes by Garrison Reservoir.*—The contract of May 20, 1948 provides for the payment of the Indians' costs in removing from the Garrison right-of-way, for costs of developing water supplies and fencing on the residual reservation, and for costs of removing cemeteries. It does not provide funds to enable the Indians to reestablish their shattered economy. Nor does it deal with the problem of those Indians who are to leave the reservation or with the basic fact that, on their diminished land resource, a substantial portion of the tribes must seek to leave the

reservation in the future. When the total effect of the Garrison project on the Fort Berthold Indians is viewed from this perspective, there is sound justification for extending substantial aid to them by providing additional compensation for economic and educational programs. Those Indians who remain on the residual reservation and who wish either to remain in, or get into, the livestock business will have insufficient funds to do so, even after their land bases have been reestablished through the land readjustment fund, as provided by sections 2 and 3 of the joint resolution. Around 90 percent of those who expect to remain on the reservation fall in this category (200 families). The 49 families who wish to leave the overcrowded residual reservation should be encouraged to do so, but it is doubtful that very many of them will be able to take this step unless financial assistance is provided. Finally, it is very important to note that the compensation to be derived from the taking of the allotted lands will generally go to the older members of the tribes, or that it will be distributed widely in small amounts to heirs. This result will naturally follow from the fact that the taking area closely blankets the first and oldest schedule of allotments made in 1895. No conformity between compensation and need can be expected. Yet 300 families will have to move and get reestablished economically. From this analysis it is possible to describe two categories of economic need: Financial assistance to establish the Fort Berthold people in the livestock business on the residual reservation, and financial assistance to assist members of the reservation to leave the reservation to engage in small business or to acquire homes in relation to definite employment opportunities. The establishment of an "economic recovery fund" would facilitate the attainment of these purposes.

The reduction of the Fort Berthold Reservation through the taking of the best part for the Garrison Reservoir means that within a relatively short time the residual reservation segments will be brought completely into use, with insufficient resources left for the resident population to make a living. A trend to diminish the reservation population should be given impetus, and the only practicable way to achieve this would be by according the younger generation a considerably expanded opportunity for technical, professional, and vocational training.

An expression of these social and economic needs is as follows:

(a) Assistance to 175 families (or one-half of the expected reservation population) by agricultural and livestock loans, averaging \$12,000 per family, based on the Indian Bureau's experience in administering the existing revolving credit fund.....	\$2, 100, 000
(b) Assistance to 50 families by small-business and real-estate loans, averaging \$15,000 per family.....	750, 000
(c) Assistance to approximately 20 young men and women annually for 10 years, averaging \$1,500 per person per year.....	300, 000
Total.....	3, 150, 000

3. *Indemnity for alleged violations of the treaty of 1851 and the tribal constitution.*—The Fort Berthold Reservation was established in 1851 by the Treaty of Fort Laramie. The Three Confederated Tribes (Mandan, Arikara, and Gros Ventre) point with pride to the fact that they have always faithfully observed the terms of their treaty, notwithstanding repeated reductions of the area of their reservation

by the United States. These reductions have cut down the Fort Berthold Reservation from its original area of 12½ million acres to its present gross area of 643,000 acres. The land taking for the Garrison project will result in another major reduction. This landtaking, when considered in terms of the upheaval it will work, leaves the tribes virtually without an integral land base, as guaranteed by the treaty of 1851.

The Three Affiliated Tribes are a distinct element in the general population, having Indian ancestry and tribal association derived from a common historical origin. The treaty of 1851 recognized their right of occupancy to the territory delimited therein. In 1936-37 the United States recognized the tribes as a political and social entity when it granted them a tribal constitution and charter of incorporation. These documents reaffirmed their right to veto any disposition of their remaining tribal estate, much of which is now to be taken for the Garrison project.

The tribes have not challenged the right of the United States to exercise its sovereign power of eminent domain by taking for public purposes land reserved to them under the treaty of 1851. They have, however, appealed to the Congress to recognize an obligation to recompense them on account of the deliberate withdrawal of this land from the solemn guaranties made in the treaty and repeated in the constitution and charter granted to them under the Indian Reorganization Act of 1934. They take the position that it is not equitable to force them into a claims suit, that it is within the power and competence of the Congress to fix a compensatory payment, and that the Congress is morally obligated to do so.

No effort is made here to equate this claim in dollars. The amount stipulated in section 3 of the joint resolution is \$6,500,000 for all outstanding claims. The total of the specific claims set forth in the two preceding paragraphs is \$6,440,400. The conclusion must follow that the amount requested is well within reason and should commend itself to Congress for favorable action.

III. RESERVATION OF BLOCK OF ELECTRIC POWER AT GARRISON DAM (SEC. 5)

Section 5 sets aside a block of at least 20,000 kilowatts of Garrison electric power, when developed at Garrison Dam to be delivered at one or more points on the Fort Berthold Reservation, as it may be extended, at a rate not to exceed 2 mills per kilowatt-hour. Such block of power would be used on the reservation for the benefit of tribal and other enterprises, and for the benefit of individual members of the tribes. Any of the reserved power not so used might be disposed of by the United States.

It would be desirable to extend the benefits of electrification to the Fort Berthold Reservation. The tribes are being required to make extensive sacrifices in public interest, and it would be only equitable that provision should be made to give the tribes a share of the general benefit to be derived from the Garrison project.

The provision in section 5 granting the Indians a preferred status in regard to rates, seems highly questionable, however, as such preferential treatment is contrary to one of the most important tenets of the country's public power policy. The portion of section 5 which stipulates that the tribes will be delivered electric power at the rate of not

exceeding 2 mills should, therefore, be deleted. At the same time, in order to give practical effect to the principle of reserving a block of power for use within the Fort Berthold Reservation, the appropriation of sufficient funds to construct, when feasible, an adequate distribution system, without cost to the Indians, should be authorized. For these reasons, it is recommended that section 5 be revised to read as follows:

Sec. 5. When electric power is available from the Garrison Dam, there is hereby reserved and set aside a block of power of 20,000 kilowatts for sale and distribution by the Three Affiliated Tribes for use of such power on the residual Fort Berthold Reservation as it may be extended. This block of power shall be delivered at such point or points on the reservation and at such voltage as may be determined by the Secretary of the Interior. Payment shall be made for the power actually used at the lowest wholesale rate or rates applicable to the same class of service made available to other customers receiving electric power from the Garrison Dam power plant. The transmission and distribution system necessary for the delivery of such block of power to the customers of the said Three Affiliated Tribes shall be constructed from time to time as needed by the said tribes, with funds made available therefor by the United States without cost to the said tribes, and there is hereby authorized to be appropriated from time to time such sums as may be required for the construction of the said distribution system to make available to the customers of the said Three Affiliated Tribes the block of power herein reserved to them. The rates for the sale of the power by the Three Affiliated Tribes shall be subject to approval by the Secretary of the Interior. Until such time as the said Three Affiliated Tribes shall require all of the electric power reserved to them, any amount in excess of that actually required by the said Three Affiliated Tribes shall be available to the Secretary of the Interior for sale or disposition off the Fort Berthold Reservation as extended.

IV. PROVISION FOR INVESTIGATION OF IRRIGATION POSSIBILITIES ON THE RESIDUAL FORT BERTHOLD RESERVATION (SEC. 6)

Section 6 provides for an investigation of the feasibility of providing irrigation within the residual Fort Berthold Reservation and for the construction of necessary irrigation works upon a finding of feasibility. This provision extends to any lands acquired in the future by the tribes or by their members. If constructed, the irrigation works must be operated on a basis not less favorable than to non-Indian lands, and the costs thereof must be repayable in accordance with the terms of other laws applicable to Indian lands.

This section is apparently designed to insure the construction of irrigation works on feasibly irrigable lands of the Fort Berthold Reservation. It embodies no greater consideration than is given to all reservations where irrigable lands exist, but authority for such works is not always obtainable. This provision for irrigation construction has justification in that the Fort Berthold Indians are losing valuable irrigable lands in the taking, and would have had approximately 25,000 acres of irrigated land had an original Bureau of Reclamation program for irrigating the valley of the Missouri been carried out. There is further justification in that it may be shown in the future that the Fort Berthold Indians require irrigated lands for producing an assured supply of feed for their livestock and food for themselves.

Investigations, as far as they have been carried out at present, reveal that irrigation of any area of the residual segments is probably infeasible. To reach suitable lands, water must be lifted about 200 feet from the normal level of the reservoir. With electric power at even 2 mills per kilowatt-hour, the cost of putting water on land with this pumping requirement would be approximately from \$6 to \$7 per acre. For Indians, unused to irrigation, or for nonintensive irrigated farm-

ing, this cost would be prohibitive. The report on tentative investigations of irrigable lands, by the Missouri River Basin investigations, states:

Examination of the topographic maps prepared by the Corps of Engineers and the reconnaissance survey maps of the United States Bureau of Reclamation discloses no potential irrigable areas within the residual reservation which can be feasibly irrigated by the pumping of water from the Garrison Reservoir.

First impressions might indicate that the area lying within southeast Mountrail County located within the peninsula formed by the Missouri River on the west and south and Shell Creek Valley on the east could be supplied with water by pumping from Garrison pool to the top of the divide which roughly parallels the Missouri River and the relatively short distance to the east of it.

The low points along the top of the ridge are at an elevation of approximately 2,200 feet mean sea level. The operating level of the Garrison pool will be at elevation 1,830 feet mean sea level. At the nearest point the 1,830 contour is approximately 1½ miles from the nearest saddle in the ridge. This means that any installation to pump water to the top of this ridge would require 1½ miles of pipe line operating under a maximum static head of about 370 feet.

Since the maximum static head of approximately 150 feet is considered to be the outside limit at which irrigation pumping can be considered with all other conditions (power rates, quality of the land, climatic conditions, etc.) extremely favorable, it seems obvious that the proposal to irrigate any of the area lying on this peninsula is not feasible.

The greatest possibility of these Indians having irrigated lands will be in some bottom land which they may acquire. There is the possibility of purchasing or exchanging dry farm land east of the river for land south of the reservation in the future for the livestock program and settlement. If the land were acquired in the neighboring valley of the Knife River, it would probably be subject to irrigation from the proposed Knife River Reservoir.

Enactment of section 5 ought not to be opposed, but it is not possible to be sanguine that any substantial benefit will accrue therefrom to the Fort Berthold Indians.

V. PAYMENT OF INTEREST ON FUND OF \$5,105,625 (SEC. 7)

Section 7 provides for the payment of 4 percent interest on the fund of \$5,105,625, appropriated by Public Law 296, from July 31, 1947, the approval date of the said statute. The interest is to be credited to the tribes. Both the fund and the interest are to be nontaxable.

Inasmuch as there is no contract and no conveyance of property until ratification of the contract by the Congress, the payment of interest from the date of the approval of the appropriation act appears to be questionable. However, payment of interest from the date on which the contract was executed would be justifiable. It is recommended therefore that section 7 be amended by striking out "July 31, 1947" and inserting "May 20, 1948." This date is that on which the Indians and the United States executed the contract in accordance with Public Law 296. It is reasonable to apply the doctrine of *nunc pro tunc*, once the contract comes into effect through congressional ratification.

The last sentence of section 7 which reads, "The said funds shall be and remain nontaxable" has the effect of relieving the compensation received under the contract by the tribes and the members thereof from the imposition of the capital-gains income tax. In view of the fact that the lands being taken from the Indians and the income pro-

duced by such lands are at present tax-free, the fact that the taking is involuntary and fraught with such serious consequences to the Three Affiliated Tribes, the fact that the replacement value of the property to be taken is not recognized in the appraisal thereof, and the further fact that the Fort Berthold Indians will require all the compensation received to buy new homes and lands, this provision in section 7 should be endorsed.

VI. PROTECTION OF SETTLEMENT PROCEEDS FROM COLLECTION OF DEBTS (SEC. 8)

Section 8 has the following effect: It bars the collection of debts of the tribes and their members out of any funds received under the joint resolution, including the contract of May 20, 1948, except debts due the United States and the tribes. It also cancels all debts of the tribes and their members incurred in connection with the Farm Security Administration, Farmers Home Administration, and seed and feed loan programs.

It should be noted that, except for the three specifically named kinds of debts, section 8 does not cancel the debts of the tribes and their members; it operates only to make debts noncollectible from proceeds derived under the joint resolution. This is appropriate since the proceeds received from the Garrison taking are being made available by the Congress for specific purposes, and should be protected against diversion through the collection of old debts which would militate against the successful removal and rehabilitation of the tribes. However, the proviso to the section which would cancel debts incurred in connection with certain Federal agricultural programs does not seem to be consistent with the rest of the section, and the elimination of this proviso is recommended.

VII. STIPULATION OF FINAL SETTLEMENT (SEC. 9)

Section 9 stipulates that the executed contract and the supplementary sections of the joint resolution shall be in "complete and final settlement of all rights, interests, and claims whatsoever of the Three Affiliated Tribes and the members thereof against the United States by reason of the construction" of the Garrison project.

The effect of section 9 is to cancel the tribes' right to bring suit in the Court of Claims under the authorization contained in Public Law 296. As pointed out elsewhere in this memorandum, the proposal to make a complete and final settlement as set forth in the joint resolution is highly desirable. Yet as section 9 is now written it contains no express provision for acceptance of this settlement by the tribes. Without such acceptance the section would, of course, be binding on the tribes, but its force would be merely that of a unilateral settlement imposed on the Indians by law, and not that of a bilateral settlement mutually agreed to by both parties. Accordingly, it is believed that section 9 should be amended so as to provide that the terms of settlement embodied in the joint resolution shall become effective only upon the acceptance of these terms by the Three Affiliated Tribes. This could be accomplished by inserting after the word "when" in line 15 of page 76 the phrase "accepted by the tribal business council of the Three Affiliated Tribes and."

VIII. CORRECTION OF ARTICLE XII OF CONTRACT (SEC. 10)

Section 10 corrects article XII of the contract by making it apply also to any minerals found in the future in the taking area, not merely gas and oil.

The correction provided in section 10 is desirable.

IX. AUTHORIZATION OF APPROPRIATIONS TO CARRY OUT JOINT RESOLUTION

Section 11 authorizes appropriations necessary to carry out the conditions, provisions, and requirements of the joint resolution.

By section 3 of article III of the Fort Berthold contract, no portion of the appropriation of \$5,105,625 may be expended by any Government agency for any cost or expense incurred by such agency in carrying out the terms of the contract. Inasmuch as the contract imposes many responsibilities on this Department, section 11 is indispensable to an effective execution of the contract.

A careful analysis of the contract indicates that an appropriation of at least \$500,000 should be authorized for expenditure by the Department over the next few years. Funds appropriated to the Bureau of Indian Affairs for Missouri River Basin investigations and surveys are not sufficient to cover these costs and, moreover, could not be used for several of the purposes. Responsibilities of this Department under the contract are as follows:

1. Appraisal of the Indian lands and improvements located in the Garrison taking area.

2. Appraisal of lands and improvements to be acquired with proceeds to be received under the contract.

3. The preparation of detailed plans and estimates of cost for the removal of the Indians from the taking area; the investigation of the lands and water resources of the residual Fort Berthold Reservation; and the supervision of the Indians' removal and relocation.

4. The preparation of detailed plans and estimates of costs for the removal and relocation of Indian cemeteries, monuments, and shrines from the taking area, and the supervision thereof.

5. The investigation of grazing areas below the taking line and the preparation of recommendations to the Chief of Engineers as to areas to be reserved for Indian use.

6. The planning and supervision of salvage operations, including the cutting and disposal of standing timber located in the taking area.

7. The legal representation of Indians who exercise their option to reject appraisals of their lands as prepared by the Commissioner of Indian Affairs.

8. The augmenting of the Indian Bureau staff at the Fort Berthold Agency, necessitated by the need for additional personnel to make cash disbursements to individual Indians, and to lend assistance to the Indians in planning the reconstitution of their farming and live-stock activities, in supplying them with advice in readjusting their home economics, and in safeguarding health and welfare during the period of their removal.

9. The repair and renovation of Government quarters on the Fort Berthold Reservation for the accommodation of additional personnel required for the planning and supervision of the Indians' removal; and the purchase of necessary automotive equipment.

Expenses to be incurred by this Department for the discharge of the further duties created by sections 2 to 10 of the joint resolution are summarized as follows:

Sections 2 and 3: Costs of administration would be payable from the appropriation of \$3,000,000 authorized by these sections.

Section 4: Costs of administration cannot be presently estimated, since they would depend upon the uses to which the appropriation of \$6,500,000 authorized by this section is put, and upon the extent to which the tribal business council would seek assistance from the Department in administering said uses.

Section 5: The reservation of the block of power authorized by this section would not involve any expenses; costs of constructing the power-distribution system would be spread over a period of years commencing when power from the Garrison project became available; these costs when reduced to a present value basis are estimated at \$2,500,000.

Section 6: \$10,000.

Sections 7, 8, 9, and 10: None.

