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REPORT TO THE COMMISSION ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

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Information On Federally Owned Submarginal Land Within The Rosebud Reservation In South Dakota

B-147652 B-147655

Bureau of Indian Affairs Department of the Interior

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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FILE COPY - COMP. GEN.

JAN. 10, 1973

B-147652



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

B-147652

B-147655

Dear Mr. Chairman:

In accordance with your request of July 31, 1972, this is our report on federally owned submarginal land within the Rosebud Reservation in South Dakota.

The information in this report updates a section (pp. 123 to 130) of our 1962 report on review of proposed legislation for conveying to certain Indian tribes and groups submarginal land administered by the Bureau of Indian Affairs, Department of the Interior (B-147652, B-147655, Aug. 13, 1962).

We plan no further distribution of this report unless copies are specifically requested and then only after your agreement has been obtained or you have publicly announced its contents.

Sincerely yours,

A handwritten signature in cursive script that reads "James B. Argets".

Comptroller General
of the United States

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

C o n t e n t s

	<u>Page</u>	
DIGEST	1	
CHAPTER		
1	INTRODUCTION	3
	Rosebud Reservation	3
	Rosebud Sioux Tribe	4
2	INFORMATION ON SUBMARGINAL LAND, TRIBAL LAND, AND TRIBAL FINANCIAL RESOURCES	6
	Submarginal land	6
	Improvements	6
	Present and past land uses	7
	Planned land uses	8
	Mineral and water resources	9
	Tribal land	10
	Land consolidation program	10
	Tribal enterprises	11
	Housing	12
	Planned land uses	12
	Tribal financial resources	13
	Summary	14
APPENDIX		
I	Letter dated July 31, 1972, from the Chair- man, Committee on Interior and Insular Affairs, United States Senate	15

ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office

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

INFORMATION ON FEDERALLY OWNED
SUBMARGINAL LAND WITHIN THE
ROSEBUD RESERVATION IN SOUTH DAKOTA
Bureau of Indian Affairs
Department of the Interior
B-147652, B-147655

D I G E S T

WHY THE REVIEW WAS MADE

The Chairman of the Senate Committee on Interior and Insular Affairs requested the General Accounting Office (GAO) to

--update the factual data in the 1962 GAO report on its review of proposed legislation for conveyance of submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior, to certain Indian tribes and groups and

--comment on how conveyance of the submarginal land to the Indian tribes involved can contribute to their social and economic advancement.

FINDINGS AND CONCLUSIONS

There are 28,735 acres of federally owned submarginal land within the Rosebud Reservation in South Dakota, which is inhabited by the Rosebud Sioux Tribe. BIA estimated in August 1972 that the value of the submarginal land, for which the Government paid about \$155,000, was about \$1,317,000. (See pp. 3 and 6.)

In 1962 GAO reported that improvements on the submarginal land consisted of windmills and wells, stock tanks, a few buildings, reservoirs (stock water ponds), and

fences, which had an estimated value of \$51,630. Officials of BIA's Rosebud agency office said that no significant improvements had been made to the submarginal land since 1962. (See p. 6.)

On March 26, 1965, BIA issued a revocable permit to the tribe for use of the submarginal land for an indefinite period which began November 1, 1966. The permit allows subpermitting but prohibits the growing of price-supported crops which are in surplus supply and reserves all timber, water rights, and mineral rights to the Government. (See p. 7.)

Although the present permit allows free use of the submarginal land, BIA permits issued for various periods through October 1964 required the tribe to pay annual rent and, at that time, the Government had collected about \$76,400 in rent. (See p. 7.)

Subpermittees have used the submarginal land for grazing, except for 543 acres which have been used to grow alfalfa. During the 5-year period ended October 31, 1972, the tribe received income of about \$181,600 from the submarginal lands. (See p. 7.)

The tribe owns 424,781 acres of land within the reservation boundaries, most of which were used for

JAN. 10, 1973

grazing during 1971. Tribal records showed that the tribe received income of about \$1,006,000, primarily from grazing leases, during the 5-year period ended June 30, 1972. (See p. 10.)

The tribe has several enterprises which employed 103 tribal members as of August 1972 and which involved acquisition and management of land, ranching, small manufacturing firms, water and sewage services, tourist facilities, and general contracting and construction. (See p. 11.)

In 1962 the tribe established a housing authority to provide housing on the reservation. As of August 1972 the housing authority had constructed 915 housing units for reservation families on tribal land with financial assistance received under various Department of Housing and Urban Development programs. (See p. 12.)

The tribe's general fund financial statement for the year ended June 30, 1971, prepared by BIA's Office of Audit but not verified by GAO, showed a net worth of about \$15 million. Also, financial statements as of the same date for various tribal enterprises and other tribal operations showed a net worth of about \$1.8 million. Also during fiscal year 1972 the tribe received about \$1.6 million in grants for various purposes from Federal agencies. (See p. 13.)

The tribe has three claims pending with the Indian Claims Commission. Two of the claims, involving the Rosebud Sioux Tribe and other Sioux tribes, are for fair compensation for land ceded to the Government in

1868 and 1876. The other claim is for a proper accounting by the Government for all property or funds received and expended on behalf of the tribe since July 1, 1925. No specific amounts have been established for these claims. (See p. 13.)

An agency office official and the secretary of the tribal council told GAO that the tribe had no formal plan for future use of the submarginal land but that use of the land fitted into the tribe's general land use plan. They told GAO also that, if the submarginal land was conveyed to the tribe:

- Certain tracts could be used for industrial, commercial, or recreational development or for homesites for Indian families.
- Ownership of the land would permit participation in Department of Agriculture cost-sharing programs for land improvement.
- Certain tracts could be exchanged for other land, to permit better use by Indian operators or by the tribe through more efficient agricultural units.
- Acreage for the growing of price-supported crops could be increased.
- Ownership of the land would permit the tribe to issue the same type of long-term leases authorized for its present landholdings. (See pp. 8 and 9.)

GAO believes that such use of the land could contribute to the social and economic advancement of the tribe. (See p. 14.)

CHAPTER 1

INTRODUCTION

Pursuant to a request dated July 31, 1972, from the Chairman of the Senate Committee on Interior and Insular Affairs (see app. I), and in accordance with subsequent discussions with his office, we have updated the factual data on pages 123 to 130 of our August 1962 report on submarginal land administered by the Bureau of Indian Affairs (BIA), Department of the Interior.¹ Also, the Chairman requested that we comment on how conveyance of the submarginal land to the Indian tribes involved could contribute to their social and economic advancement.

This report pertains to the 28,735 acres of federally owned submarginal land within the Rosebud Reservation in South Dakota, which is inhabited by the Rosebud Sioux Tribe.

We reviewed pertinent records and interviewed officials and representatives of BIA's central office in Washington, D.C.; BIA's area office in Aberdeen, South Dakota; BIA's Rosebud agency office in Rosebud, South Dakota; and the tribe. We also interviewed representatives of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service, Department of Agriculture. We obtained real estate tax information from an official of Todd County, South Dakota.

ROSEBUD RESERVATION

The Rosebud Reservation is located in Todd, Mellette, Tripp, and parts of Gregory and Lyman Counties in south-central South Dakota. It is bounded on the north by the White River, on the south by Nebraska, and on the west by the Pine Ridge Reservation.

¹"Report on Review of Proposed Legislation for Conveyance to Certain Indian Tribes and Groups of Submarginal Land Administered by Bureau of Indian Affairs, Department of the Interior" (B-147652, B-147655, Aug. 13, 1962). The report was submitted to the House and Senate Committees on Interior and Insular Affairs.

The reservation was a part of the Great Sioux Reservation established in the Dakotas west of the Missouri River by the Fort Laramie Treaty of 1868. The act of March 2, 1889 (25 Stat. 888-899), established six small reservations within the Great Sioux Reservation, of which Rosebud was one, and restored the rest of the land to the public domain.

As of June 30, 1972, ownership of the land within the reservation boundaries was as follows:

	<u>Acres</u>
Indian land (title held in trust by the Government):	
Allotted by the tribe to individual Indians	511,259 ^a
Tribal	<u>424,781^b</u>
	<u>936,040</u>
Other land:	
Submarginal, Government owned	28,735 ^c
Rosebud Sioux agency office administrative reserve	62
State, Indian, and non-Indian ownership (fee title)	<u>2,252,780</u>
	<u>2,281,577</u>
Total	<u><u>3,217,617</u></u>

^aIncludes land in which the tribe holds a part interest.

^bAt the time of our 1962 report tribal land totaled 394,834 acres.

^cIncludes 5 acres which are used for highway right-of-way and which were not included in the acreage shown in our 1962 report.

ROSEBUD SIOUX TRIBE

The tribe operates under a constitution and bylaws ratified by its members in November 1934 and approved by the Secretary of the Interior in December 1935. The tribe's corporate charter was ratified by its members in March 1937.

An agency office official estimated that, as of July 31, 1972, the tribe had 8,185 members. A March 1972 labor force data report prepared by the agency office showed that 7,488 Indians lived on or near the reservation. The report showed also that the Indian labor force totaled 1,833, of whom 472 were unemployed. Of the 1,361 employed Indians, 964 had permanent employment and 397 had temporary employment.

CHAPTER 2

INFORMATION ON SUBMARGINAL LAND,

TRIBAL LAND, AND TRIBAL FINANCIAL RESOURCES

SUBMARGINAL LAND

The 28,735 acres of submarginal land are in 115 separate tracts located in Todd County. All tracts are within the reservation boundaries, and they range in size from 40 to 800 acres. The submarginal tracts are surrounded by various combinations of privately owned and Indian (allotted and tribal) land.

The submarginal land was purchased by the Government under the provisions of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200); the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); and section 55 of title I of the act of August 24, 1935 (49 Stat. 750, 781). BIA records show that the Government paid about \$155,000 for the land.

In August 1972 agency office officials estimated that the value of the submarginal land was about \$1,317,000. This estimate was based on BIA appraisals of allotted lands which were sold in 1971 and 1972 and which were similar to the submarginal land. On the basis of BIA's land classification data and of data obtained from the Todd County director of equalization, we estimate that, if the submarginal land were subject to real estate taxes, the calendar year 1972 taxes would be about \$19,724.

Improvements

In a letter dated January 13, 1971, to BIA's Aberdeen area office, an agency office official stated that improvements on the submarginal land had been very limited because the users were reluctant to make improvements on land where continued use was not insured.

In 1962 we reported that the improvements on the submarginal land consisted of windmills and wells, stock tanks, a few buildings, reservoirs (stock water ponds), and fences,

which had an estimated value of \$51,630. Agency office officials said that records had not been kept of the improvements made on the land. They said also that no significant improvements had been made to the land since 1962.

Present and past land uses

Since October 1964 the tribe has had free use of the submarginal land under revocable permits issued by BIA. The present permit was issued on March 26, 1965, for an indefinite period which began November 1, 1966. The permit states that all timber, water rights, mineral rights, and the right to grant easements on the land for public purposes are reserved to the Government. It allows subpermitting but prohibits the growing of price-supported crops which are in surplus supply.

BIA permits issued for various periods through October 1964 required the tribe to pay annual rent for use of the land and, at that time, the Government had collected about \$76,400 in rent. In October 1964 the Acting Secretary of the Interior directed that the rental charges to Indian tribes for use of submarginal land be discontinued.

As of June 30, 1972, the tribe was subpermitting the submarginal land as shown below.

	Number of subper- mittees	<u>Acres</u>
Indian	54	19,904
Non-Indian	<u>29</u>	<u>7,961</u>
Total	<u>83</u>	<u>27,865</u>
Permits still pending		830
Land not included in a permit		<u>40</u> <u>870</u>
Total		<u>28,735</u>

The subpermittees used the submarginal land for grazing, except for 543 acres which have been used to grow alfalfa. An agency office official told us that the tribe gave

preference to Indians in subpermitting submarginal land. During the 5-year period ended October 31, 1972, the tribe received income of about \$177,800 from subpermits and about \$3,800 from hay-cutting permits. The secretary of the tribal council said that this income had been used to pay tribal operating expenses and to buy land. There was no mineral or timber income from the submarginal land.

An agency office official estimated that about 5,400 acres of the submarginal land were suitable for cultivation. He said that in his opinion the acres suitable for cultivation could be used to grow small-grain crops (wheat, barley, oats, and grain sorghum) and alfalfa on a rotation basis and that the remainder of the land was best suited for grazing.

Planned land uses

An agency office official and the secretary of the tribal council told us that the tribe had no formal plan for future use of the submarginal land but that use of the land fitted into the tribe's general land use plan. The comments of these officials regarding planned uses of the submarginal land and how conveyance of the land would benefit the tribe were as follows:

- Ownership of the submarginal land would increase the effectiveness of the tribe's efforts to consolidate its landholdings, because 70 percent of the submarginal tracts adjoined land in which the tribe was purchasing heirship interests.
- The location of the submarginal land was such that loss of title by public sale to non-Indians would defeat the tribe's land consolidation program and would curtail Indian use of the reservation land resources.
- The submarginal land would be treated similarly to other land under tribal administration, and certain tracts could be developed for industrial, commercial, or recreational use or for homesites for Indian families.
- Ownership of the land would permit participation in Department of Agriculture cost-sharing programs for

land improvement, and acreage for the growing of price-supported crops could be increased.

--Certain tracts of land could be exchanged for other land, to permit better use of tribal land by Indian operators or by the tribe through more efficient agricultural units.

--Ownership of the land would permit the tribe to issue the same type of long-term leases authorized for its present landholdings.

An official of BIA's Aberdeen area office told us that the tribe planned to use the submarginal land in conjunction with its tribal land enterprise program to establish additional economical ranch units for use by Indian ranchers. He said that, although the acquisition of the submarginal land would not complete the tribe's land consolidation program, it would be a large step in that direction.

Mineral and water resources

The latest mineral survey of the reservation was made by the Bureau of Mines in 1964, and the results were reported in June 1965. The report stated that there was an abundance of low-grade gravel for road material that would supply the needs of the reservation indefinitely. The report stated also that the thinness of the stratigraphic section (the area of the earth's crust in which oil and gas deposits may be located) and the absence of known geologic structures had generally discouraged exploration for oil and gas. The report stated further that other minerals either did not exist or were of too poor quality to be of significant value.

There are no major rivers or other bodies of water on or adjoining the submarginal land, except the Little White River which runs through part of six submarginal tracts. An agency office official said that the river could have recreational potential.

TRIBAL LAND

BIA's records for calendar year 1971 show that tribal land was used as shown below.

<u>Use</u>	<u>Acres</u>
Forest	36,800
Agriculture	23,020
Open grazing	353,343
Other	<u>4,030</u>
Total	<u>417,193^a</u>

^aBetween December 31, 1971, and June 30, 1972, the tribe acquired 7,588 additional acres of land.

As of June 30, 1972, the tribe had assigned 150,692 acres of tribal land to individual Indians. Tribal officials said that the amount of income derived from this land was not known, because the income went to the individuals rather than to the tribe.

Tribal records showed that the tribe received income of about \$1,006,000, primarily from grazing leases, during the 5-year period ended June 30, 1972. The secretary of the tribal council said that all tribal income was used to pay tribal operating expenses and to buy land.

Land consolidation program

The tribe has a land consolidation program designed to keep as much of the reservation as possible in tribal ownership. Under this program the tribe purchases land that is generally adjacent to tribal land and exchanges scattered tracts of tribal land for other land. The land consolidation program is being carried out in Todd and Mellette Counties.

On October 4, 1971, the Farmers Home Administration, Department of Agriculture, loaned the tribe \$1,502,000 to purchase individual Indian interests in tracts of land in which the tribe had 40 percent or more ownership. The tribe plans to purchase about 26,400 acres in 355 tracts of land.

As of August 1972 the tribe had received advances of \$680,000 and had spent about \$268,000 to buy 4,500 acres, which gave it full ownership of 56 of the tracts of land. In addition, the tribe spent about \$409,000 to increase its percentage of ownership in land for which it had not been able to obtain full ownership.

Tribal enterprises

In August 1972, the secretary of the tribal council told us that the tribe had the following enterprises.

- The Tribal Land Enterprise was formed to acquire and manage land for the tribe. It employed three tribal members.
- The Tribal Ranch maintained a small herd of cattle and a few buffalo. It employed five tribal members.
- The Rosebud Electronics made harnesses for electronic cables. The tribe planned to expand and produce printed circuits. It employed about 60 tribal members.
- The Sewer and Water Commission provided water and sewage services to residents of the reservation. It employed 10 tribal members.
- The Ghost Hawk Park is a camping ground for tourists. The park is maintained by persons employed under the Department of Labor Mainstream program.
- The Lakota Products was formed in July 1972 to manufacture cabinets and furniture for mail-order companies. It employed 24 tribal members, and the secretary told us that, by the spring of 1973, it would employ 75 persons.
- A tribal construction company was formed in July 1972 to engage in general contracting and construction. No construction was underway. It employed one tribal member. Future employment will depend upon its obtaining contracts.

Housing

The Rosebud Housing Authority was established by the tribe in 1962 to provide safe, sanitary, and adequate housing on the reservation at prices that low-income persons could afford. During the period 1964 through 1969, 915 houses were constructed for reservation families. The houses were constructed on tribal land with financial assistance under various Department of Housing and Urban Development programs.

The authority has not constructed any housing on the reservation since 1969. In August 1972 the authority was preparing an application to the Department of Housing and Urban Development for financial assistance for 300 low-rent houses to be constructed by June 1973 and a grant of about \$1 million to be used in upgrading many substandard houses. An agency office official said that from 500 to 1,000 more housing units would be required to provide sufficient standard housing on the reservation.

Planned land uses

The secretary of the tribal council stated that the tribe's long-range plans for tribal land included development of the Little White River for recreational purposes through construction of a dam on the river and construction of parks, campgrounds, concession facilities, and a motel in the area. He stated also that the tribe's long-range plans included (1) obtaining a Public Health Service grant to construct a 75-bed hospital for use by tribal members and (2) developing a dairy operation on the tribal ranch.

An agency office official told us that tribal land was being used at its highest potential in terms of the present methods of dry farming. He said that the optimum potential of the land could be realized through irrigation farming but that available resources and a lack of demand for additional croplands did not favor the development of this land for irrigation farming. He also stated that some tribal land might have potential as residential or industrial sites, although current demand was only for some residential homesites.

TRIBAL FINANCIAL RESOURCES

The tribe's general fund financial statement for the year ended June 30, 1971, prepared by BIA's Office of Audit but not verified by us, showed a net worth of about \$15 million. The statement showed land valued at about \$14.6 million, other assets of about \$1 million, and liabilities of about \$571,000. Also, financial statements as of the same date for various tribal enterprises and other tribal operations showed a net worth of about \$1.8 million.

A statement prepared by the accountant for the tribal treasurer's office showed that the tribe received the following grants from Federal agencies during fiscal year 1972.

<u>Federal agency</u>	<u>Program or service</u>	<u>Amount of grant</u>
Office of Economic Opportunity	Community Action Program and Emergency Food and Medical Services	\$ 395,000
Economic Development Administration	Planning grant for development of businesses	40,100
Department of Labor	Mainstream, Neighborhood Youth Corps, and Tribal Work Experience Program	408,694
Department of Housing and Urban Development	Low-rent housing	78,640
Department of Health, Education, and Welfare	Community Health Representative, Head Start, and Follow Through	<u>708,134</u>
	Total	<u>\$1,630,568</u>

An agency office official said that the tribe had not received any claim settlements since 1962. As of November 17, 1972, the tribe had three claims pending with the Indian Claims Commission. Two of the claims, involving the Rosebud Sioux Tribe and other Sioux tribes, are for fair compensation for land ceded to the Government in 1868 and

1876. The other claim is for a proper accounting by the Government for all property or funds received or expended on behalf of the tribe since July 1, 1925. No specific amounts have been established for these claims.

SUMMARY

Although the tribe has not developed formal plans for use of the submarginal land, an agency office official and the secretary of the tribal council told us that, if the land were conveyed to the tribe, certain tracts could be used for industrial, commercial, or recreational development or for homesites for Indian families. They also stated that ownership of the land would permit participation in Department of Agriculture cost-sharing programs for land improvement and that acreage for the growing of price-supported crops could be increased; isolated tracts could be exchanged for other land, to permit better use by Indian operators or the tribe through more efficient agricultural units; and ownership of the land would permit the tribe to issue the same type of long-term leases authorized for its present landholdings. We believe that such use of the land could contribute to the social and economic advancement of the tribe.

HENRY M. JACKSON, WASH., CHAIRMAN
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JERRY T. VERKLER, STAFF DIRECTOR

United States Senate

COMMITTEE ON
 INTERIOR AND INSULAR AFFAIRS
 WASHINGTON, D.C. 20510

July 31, 1972

The Honorable Elmer B. Staats
 Comprtoller General of the United States
 Washington, D. C.

Dear Elmer:

This letter is in reference to my letter dated April 1, 1971, in which I requested your staff to begin updating the Comprtoller General's Report on Submarginal Land which was submitted to the House and Senate Committees on Interior and Insular Affairs on August 13, 1962.

It has recently been brought to my attention that the Department of the Interior is making a study of instances in which a tribe or group of Indians seeks to acquire land and, as a result of this study, does not intend to submit any further proposed legislation and related comments on the proposed transfer of submarginal lands to Indian tribes and groups until the study is completed.

Previous agreements provided for your staff to initiate the updating of factual data in your 1962 report at the time the Department prepared a draft of proposed legislation providing for the transfer of submarginal land to an Indian tribe or group. Under these arrangements, reports were issued on four Indian tribes or groups and I understand that reports are currently in process on five additional tribes or groups.

APPENDIX I

The Honorable Elmer B. Staats

Page 2

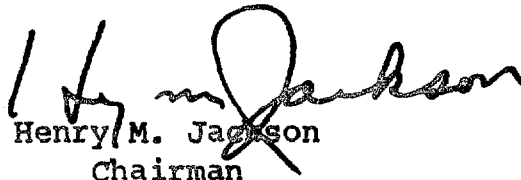
July 31, 1972

Because the Department apparently does not plan to submit any further proposed legislation providing for the transfer of submarginal lands to Indian tribes and groups until after its study is completed, please consider this letter an official request to have your staff begin updating the factual data in the 1962 report regarding the remaining nine Indian tribes or groups and to furnish individual reports thereon as soon as each is completed.

I would like for your reports to include comments on how the conveyance of the lands in question to Indian tribes can contribute to their social and economic advancement.

Your assistance is appreciated.

Sincerely yours,



Henry M. Jackson
Chairman

HMJ:fge