

GAO

Briefing Report to Congressional Requesters

March 1987

FARMERS HOME ADMINISTRATION

Information on Agricultural Credit Provided to Indians on 14 Reservations

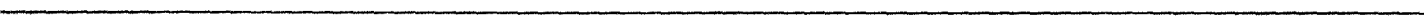


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Resources, Community, and  
Economic Development Division

B-226061

March 11, 1987

Chairman, Select Committee on Indian Affairs  
United States Senate

The Honorable John Melcher  
United States Senate

The Select Committee's letter of May 23, 1986, among other things, expressed concern about the potential loss through foreclosure of reservation land used by Indians as collateral when obtaining Farmers Home Administration (FmHA) farm loans. FmHA, a U.S. Department of Agriculture agency, is experiencing significant loan delinquencies and property foreclosures nationwide. Among FmHA's financially stressed borrowers are individual Indians who pledged land located on reservations as security for farm program loans. Although situations vary among reservations, the reservations generally have land that is owned by the tribe, individual Indians, and others, including state and local governments and non-Indian individuals. Individual Indians may own reservation land privately (known as fee simple or fee land), or they may own land that is held in trust and administered by the Department of the Interior's Bureau of Indian Affairs (BIA). Both types of land have been used by Indian borrowers as security for FmHA loans. To address the issues in the request, we agreed with the Committee's office to obtain agricultural credit information from 14 specified reservations in Montana, North Dakota, and South Dakota.

This briefing report summarizes the information provided in a briefing to your office in January 1987 and is divided into six sections.

Section 1 provides an overview of FmHA activities and our review objectives, scope, and methodology.

Section 2 provides statistics about past, current, and predicted losses of land pledged by Indian borrowers as security for FmHA farm loans. As of July 1986, a total of 370 borrowers on 12 of the 14 reservations had pledged 351,166 acres to FmHA as loan security. No land was pledged to FmHA on the other two reservations. The 370 borrowers had 1,062 farm program loans worth nearly \$49 million in unpaid principal and interest.

Between October 1981 and May 1986, 8 Indian borrowers on 5 of the 14 reservations lost 13,382 acres of land pledged as security for FmHA farm program loans. Of the 370 borrowers we reviewed, 39 percent (144 borrowers) were either in the process of or were predicted to be at risk of foreclosure or voluntary conveyance. These borrowers could lose 132,068 acres of reservation land. At the time of our review, 46 of the 144 borrowers were undergoing voluntary conveyance or foreclosure of 33,157 acres. FmHA county office officials predicted that the remaining 98 borrowers with 98,911 acres pledged may undergo foreclosure or voluntary conveyance by September 1988. As a percent of acres pledged on each reservation, the potential loss ranged from a low of zero percent on one reservation to a high of 75 percent on another reservation (see app. I).

Section 3 provides a description of options available to help Indians avoid the loss of reservation land. Once a borrower gets into financial trouble, FmHA loan-servicing options provide delinquent borrowers with alternatives that may help bring loans current. Options include the adjustment of interest rates and revision of loan repayment schedules. However, once a borrower gets hopelessly behind in payments, very few options are available to help the borrower avoid the loss of loan collateral. Because by regulation FmHA must treat all borrowers alike, FmHA does not have any special options to help Indian borrowers avoid foreclosure or voluntary conveyance.

The remaining sections of this briefing report contain additional information you requested on (1) FmHA's Indian Tribal Land Acquisition Program (ITLAP), how the 14 tribes used the program, and tribal interest in using the program in the future; (2) working relationships between FmHA and BIA in issuing, servicing, and foreclosing on FmHA farm program loans to Indian borrowers; and (3) FmHA and BIA views on possibly shifting FmHA loan functions to BIA for farm loans made to Indians.

Section 4 contains historical information about the use of ITLAP and information about tribal interest in its future use. Instituted in 1971, ITLAP authorized FmHA to make loans to Indian tribes and tribal corporations to purchase land within their reservations. Ten of the 14 tribes have participated in the program. They borrowed about \$52 million from FmHA to purchase 621,281 acres. Eight of the 10 tribes purchased, with program funds, land that ranged from 10 percent of the total land purchased by 1 tribe to 93 percent by another tribe. (The percentages for the remaining two

tribes were less than 5 percent.) The program is valued by tribes as a means to expand their tribally owned land base, and 12 of the 14 tribes are interested in using it in the future. Program-related or external constraints such as high interest rates, inflexible repayment schedules, and instability of the agricultural economy were mentioned as reasons for not using the program.

Section 5 provides a summary of the working relationship between FmHA and BIA in issuing, servicing, and foreclosing on FmHA farm program loans to Indian borrowers. Because FmHA instructions prescribe consistent treatment of all applicants and borrowers, FmHA and BIA interaction is not required unless Indian borrowers pledge their trust land as farm program loan security. When that situation occurs, the agencies follow FmHA and BIA national and FmHA state agreements and instructions that provide for BIA to furnish a land title status to FmHA, approve the mortgage on the land, and provide requested information about loan applicants. Instructions also allow for a limited BIA role in servicing FmHA loans and in providing assistance with conveyance of land owned by borrowers in default. In addition, FmHA state and county offices and BIA agency offices we reviewed have established working agreements to assist them in working with Indian borrowers.

Section 6 presents FmHA and BIA views on possibly shifting FmHA loan functions to BIA for farm loans made to Indians. Both FmHA and BIA headquarters officials expressed negative views about shifting FmHA loan-making, -servicing, and -foreclosing functions to BIA. FmHA cited a lack of authority for transferring loan accounts between the Department of Agriculture and the Department of the Interior, and BIA cited a lack of resources and an inability to offer any more assistance to financially stressed borrowers than FmHA already provides.

Information for this report was obtained through interviews and correspondence with tribal representatives from 14 reservations in Montana, North Dakota, and South Dakota. (See app. I.) In addition, we obtained data from FmHA farm program reports; FmHA headquarters, state, district, and county office personnel; and BIA headquarters, area, and field agency office personnel. Agency officials commented that they did not have any objections to the information presented in this briefing report.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this

B-226061

briefing report until 10 days from the date of this letter. At that time we will send copies to the Secretaries of Agriculture and the Interior, the Director of the Office of Management and Budget, and other interested parties. Copies will be made available to others upon request. Should you need further information, please contact me on (202) 275-5138.

Major contributors to this briefing report are listed in appendix II.

A handwritten signature in cursive script, reading "Brian P. Crowley". The signature is written in black ink and is positioned above the typed name and title.

Brian P. Crowley  
Senior Associate Director

BRIEFING REPORT ON  
FARMERS HOME ADMINISTRATION  
INFORMATION ON AGRICULTURAL CREDIT  
PROVIDED TO INDIANS ON 14 RESERVATIONS

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## ABBREVIATIONS

BIA	Bureau of Indian Affairs
FmHA	Farmers Home Administration
GAO	General Accounting Office
ITLAP	Indian Tribal Land Acquisition Program
RCED	Resources, Community, and Economic Development Division
USDA	U.S. Department of Agriculture

SECTION 1

INTRODUCTION

## INTRODUCTION

### BACKGROUND

The U.S. Department of Agriculture's (USDA) Farmers Home Administration (FmHA) is one of the main sources of financial assistance to the nation's farmers. It provides direct loans (government-funded), and guarantees some loans made by other lenders, for purchasing, expanding, and operating farms. FmHA serves primarily family farmers who are unable to obtain credit elsewhere at reasonable rates and terms. As such, FmHA serves as a lender of last resort to farmers.

When receiving an FmHA loan, a farmer must sign a note promising loan repayment and provide collateral, such as farm property, as security. If the farmer is unable to make loan payments, FmHA must take some action to protect the government's interest. This action may eventually include acquiring the borrower's loan collateral and selling it to recover the unpaid debt.

FmHA loan delinquencies reflect the deteriorating financial health of the U.S. farm economy. As of December 31, 1985, FmHA had almost \$26.6 billion in outstanding individual loans to farmers. At that time FmHA farm borrowers were past due on almost \$8.5 billion in payments, and the outstanding balance on loans where payments were late totaled about \$18.6 billion. Overall, almost 70 percent of the outstanding balance on FmHA's farm program loans were delinquent. FmHA also estimated in 1985 that 20 percent of its borrowers nationwide may lose their farms by the end of 1987. Among FmHA's financially stressed borrowers are individual Indians who pledged land on reservations as security for farm program loans.

When a borrower becomes delinquent (more than \$100 delinquent on any loan for at least 1 year), FmHA will eventually take some

action to protect the government's interest. Before acquiring the collateral, FmHA attempts to help farmers pay their loans by offering such services as payment adjustments and financial counseling. When such services cannot help a borrower, FmHA must minimize its losses by acquiring and selling the borrower's land. FmHA acquires properties primarily through voluntary conveyance and foreclosure, or forced liquidation, usually by other lenders.

Although situations vary between reservations, the 14 reservations included in our review generally had land that was owned in one of three ways: (1) owned by the tribe (or in some cases, by more than one tribe); (2) owned by individual Indians; and (3) owned by others, including state and local governments and non-Indian individuals. Individual Indian land may be owned privately (known as fee simple or fee land), or it may be held in trust by the Department of the Interior's Bureau of Indian Affairs (BIA). Trust land cannot be mortgaged or sold without the Department of the Interior's approval. Fee land, however, is not subject to Interior's control. Any land, whether trust or fee, that undergoes voluntary conveyance or foreclosure may leave Indian control completely if not purchased by another Indian or the tribe.

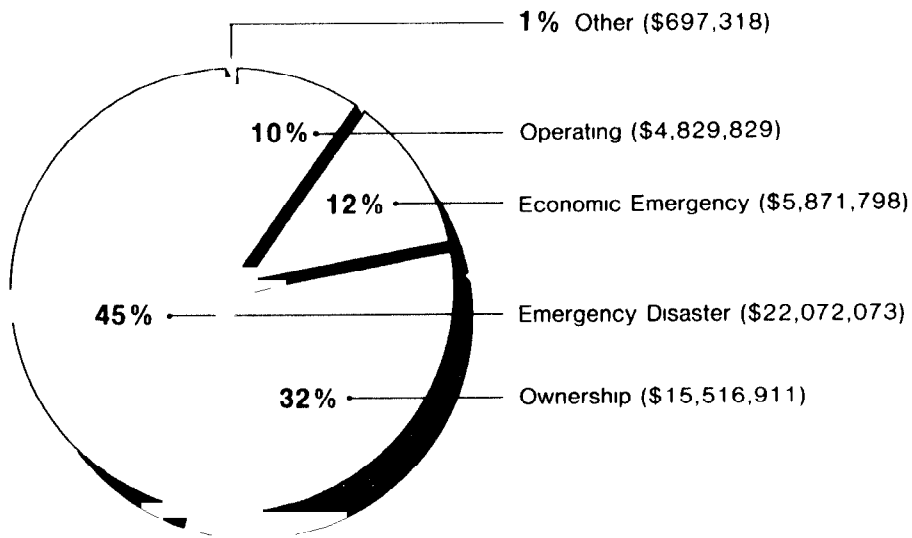
Tribes can borrow funds from FmHA through its Indian Tribal Land Acquisition Program (ITLAP) to purchase land. ITLAP, instituted in 1971, authorizes FmHA to make loans to Indian tribes and tribal corporations to purchase lands within their reservations. Program regulations stipulate that the land purchased be used for the benefit of tribal members.

Individual Indians can borrow from FmHA through its direct farm loan program. Figure 1.1 shows, for March through June 1986, the major purposes for which loans were granted for the 14 reservations in our review. Ownership loans, which FmHA issues to farmers to buy, improve, or refinance farm real estate, accounted for 32 percent of the nearly \$49 million in direct farm program loans. Forty-five percent of the loan dollars were emergency disaster loans, and 12 percent were economic emergency loans.

Operating loans accounted for nearly 10 percent of the total. Other loan types, such as soil and water loans, accounted for the remaining 1 percent.

Figure 1.1

Direct FmHA Farm Program Loans  
Secured by Real Estate



## OBJECTIVES, SCOPE, AND METHODOLOGY

On May 23, 1986, the Chairman and Ranking Minority Member of the Senate Select Committee on Indian Affairs asked for information on FmHA farm program loans and ITLAP loans made to Indians located on 14 reservations in 3 states. Specifically, we agreed to provide

- statistics on past, current, and predicted losses by Indian borrowers of land pledged as security for FmHA farm loans,
- options available to help Indians avoid the loss of reservation land,
- historical information on the use of ITLAP and information on tribal interest in the future use of the program,
- the working relationship between FmHA and BIA in issuing, servicing, and foreclosing on FmHA farm loans made to Indian borrowers, and
- FmHA and BIA views on possibly shifting FmHA farm loan-making, -servicing, and -foreclosing functions to BIA.

The requesters specified that we obtain information for the following reservations: Blackfeet, Crow, Flathead, Fort Belknap, Fort Peck, Northern Cheyenne, and Rocky Boys in Montana; Fort Berthold, Fort Totten, Standing Rock, and Turtle Mountain in North Dakota; and Cheyenne River, Pine Ridge, and Sisseton-Wahpeton in South Dakota.

To meet the objectives, we obtained information from FmHA and BIA headquarters in Washington, D.C.; FmHA's Finance Office in St. Louis, Missouri; FmHA state and county offices in the three states; an FmHA district office in North Dakota; and the BIA area and agency offices that serve the 14 reservations. We also obtained information and views from tribal representatives on each of the 14



reservations. We visited 6 of the 14 reservations and corresponded and spoke with representatives of the remaining 8. For our analysis we used information on only the trust and fee land owned by tribes or individual Indians on the 14 reservations. We used two FmHA reports to obtain direct and guaranteed loan data: Status Report of Farmer Program Accounts (FmHA report code 540) and National Caseload Report (FmHA report code 4110). The data collected reflect information for FmHA farm program borrowers on record from March through June 1986 and for foreclosures and voluntary conveyances that occurred between October 1981 and May 1986, that were in process August through October 1986, and that FmHA personnel predict may occur through September 1988. Indian-owned reservation land acreage data are as of September 1984 and October 1986.

This report contains information from FmHA automated data files. As discussed in prior reports,<sup>1</sup> minor differences have occurred between the results of our analysis of FmHA automated data files and FmHA-reported information because of differences between our and FmHA's programming and format methodology. These differences were not significant when viewed in the aggregate.

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<sup>1</sup>Information on Delinquent Borrowers in Farmers Home Administration Major Farmer Loan Programs (GAO/RCED-85-71, Feb. 6, 1985).

Farmers Home Administration: An Overview of Farmer Program Debt, Delinquencies, and Loan Losses (GAO/RCED-86-57BR, Jan. 2, 1986).

Farmers Home Administration: Financial and General Characteristics of Farmer Loan Program Borrowers (GAO/RCED-86-62BR, Jan. 2, 1986).

Farmers Home Administration: Loan-Servicing Efforts Focus on Continually Delinquent Borrowers (GAO/RCED-87-13BR, Nov. 12, 1986).

SECTION 2

STATISTICS ABOUT FmHA FARM PROGRAM LOANS  
TO INDIVIDUAL INDIAN BORROWERS

SECTION SUMMARY

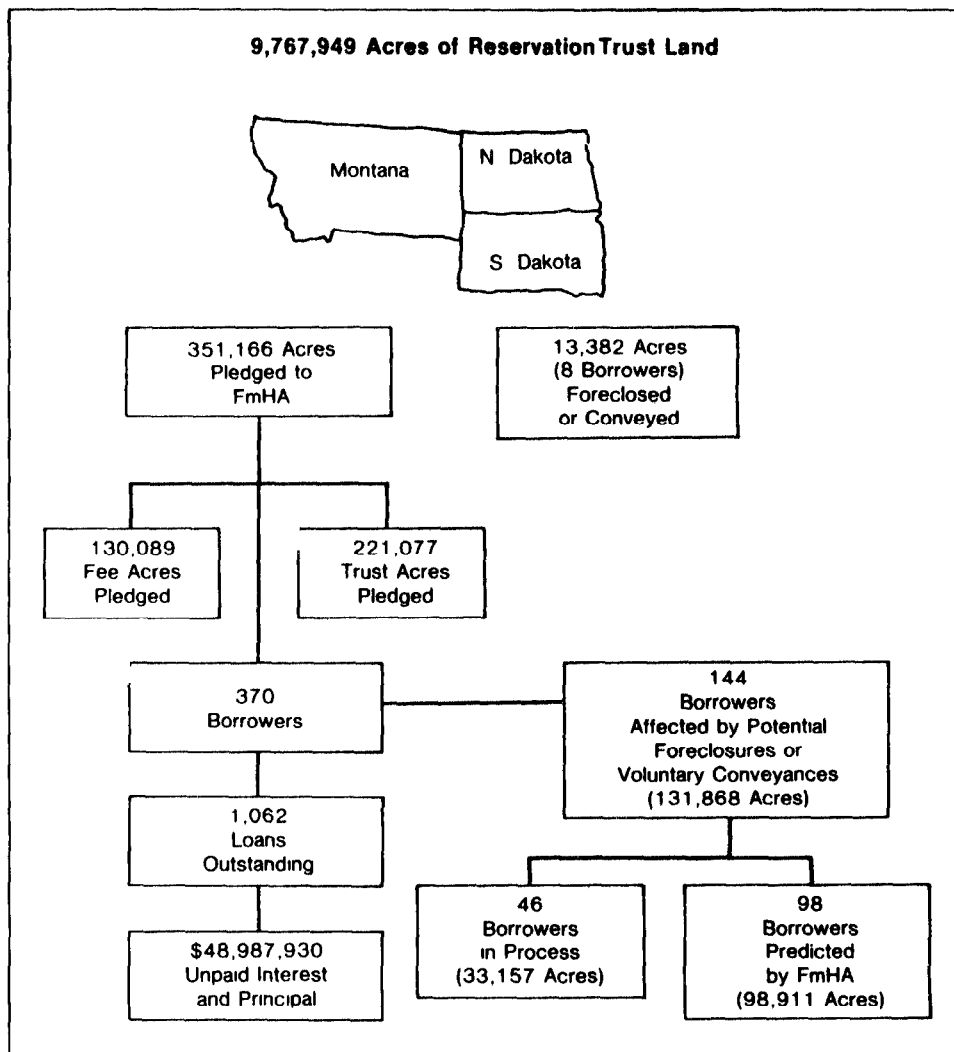


Table 2.1

Land Pledged as Security

<u>Reservation</u>	<u>Acres</u>		
	<u>Total pledged</u>	<u>Trust</u>	<u>Fee</u>
Montana			
Blackfeet	80,789	32,514	48,275
Crow	11,526	7,704	3,822
Flathead	9,203	2,346	6,857
Fort Belknap	23,846	23,411	435
Fort Peck	7,161	6,198	963
Northern Cheyenne	9,006	5,623	3,383
Rocky Boys	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>141,531</u>	<u>77,796</u>	<u>63,735</u>
North Dakota			
Fort Berthold	45,863	43,383	2,480
Fort Totten	0	0	0
Standing Rock	28,966	20,870	8,096
Turtle Mountain	<u>640</u>	<u>0</u>	<u>640</u>
Total	<u>75,469</u>	<u>64,253</u>	<u>11,216</u>
South Dakota			
Cheyenne River	77,621	50,543	27,078
Pine Ridge	56,371	28,485	27,886
Sisseton-Wahpeton	<u>174</u>	<u>0</u>	<u>174</u>
Total	<u>134,166</u>	<u>79,028</u>	<u>55,138</u>
Total	<u>351,166</u>	<u>221,077</u>	<u>130,089</u>

ACRES OF LAND PLEDGED AS SECURITY

The 14 reviewed reservations contained 9,767,949 trust acres-- 4,367,314 tribally owned acres and 5,400,635 individually owned acres. Indians have pledged to FmHA 221,077 individually owned trust acres. The largest number of pledged trust acres (50,543) was on the Cheyenne River Reservation. In addition, 130,089 individually owned fee acres were pledged. The Blackfeet Reservation accounted for the highest number of fee acres (48,275) used as loan security.

Table 2.2

Number of Borrowers, Loans, and Loan Amounts for  
Direct Farm Program Loans Secured by Real Estate

<u>Reservation</u>	<u>Borrowers</u>	<u>Outstanding loans</u>	<u>Unpaid principal &amp; interest</u>
Montana			
Blackfeet	78	227	\$10,755,175
Crow	14	35	2,126,155
Flathead	9	18	1,070,527
Fort Belknap	22	71	2,582,582
Fort Peck	9	21	1,219,645
Northern Cheyenne	18	75	3,399,874
Rocky Boys	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>150</u>	<u>447</u>	<u>\$21,153,958</u>
North Dakota			
Fort Berthold	58	217	\$11,729,108
Fort Totten	0	0	0
Standing Rock	36	137	3,969,409
Turtle Mountain	<u>2</u>	<u>2</u>	<u>70,876</u>
Total	<u>96</u>	<u>356</u>	<u>\$15,769,393</u>
South Dakota			
Cheyenne River	69	142	\$ 7,814,074
Pine Ridge	54	116	4,188,473
Sisseton-Wahpeton	<u>1</u>	<u>1</u>	<u>62,032</u>
Total	<u>124</u>	<u>259</u>	<u>\$12,064,579</u>
Total	<u>370</u>	<u>1,062</u>	<u>\$48,987,930</u>

NUMBER OF INDIAN BORROWERS WITH FmHA DIRECT  
FARM PROGRAM LOANS SECURED BY REAL ESTATE

A total of 370 Indian borrowers had FmHA direct farm program loans secured by real estate. The 1,062 outstanding loans to those borrowers had a total unpaid principal and interest of nearly \$49 million. The number of borrowers ranged from none on 2 reservations to 78 on 1 Montana reservation. The most loans on 1 reservation were 227. Two reservations had borrowers whose unpaid principal and interest exceeded \$10 million.

Table 2.3

Number of Past, In-Process, and Predicted Foreclosures/  
Voluntary Conveyances and Acres Pledged

	<u>Borrowers</u>	<u>Acres pledged</u>
Past	8	13,382
In process	46	33,157
Predicted	<u>98</u>	<u>98,911</u>
Total	<u>152</u>	<u>145,450</u>



NUMBER OF PAST, IN-PROCESS, AND PREDICTED FORECLOSURES/  
VOLUNTARY CONVEYANCES AND ACRES PLEDGED

Between October 1981 and May 1986, eight Indian borrowers had either voluntarily conveyed or were foreclosed on 13,382 acres of land on five reservations.<sup>2</sup> For the period August through October 1986, 46 of the 370 Indian borrowers were in the process of losing 33,157 acres on 5 reservations. By September 1988, according to FmHA county office personnel, an additional 98 borrowers on 11 reservations may not be able to repay loans for which they have pledged 98,911 acres. (Since these actions lie in the future, FmHA personnel do not know whether delinquent borrowers will voluntarily convey their land or undergo foreclosure.)

Thus, 39 percent (144) of the 370 borrowers were in the process or predicted to be at risk of losing 132,068 acres by September 1988.

Tables 2.4 through 2.6 and figure 2.1 identify the amounts of land pledged to FmHA, by individual reservation.

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<sup>2</sup>As of October 1986, only 1,741 of these acres were in FmHA inventory (either leased, lying idle, or occupied by the previous owner). The remaining 11,641 acres were part of third party foreclosures or conversions in which FmHA did not redeem the land, were repurchased by the prior Indian owner, or were awaiting final marshall's action.

Table 2.4

Borrowers Who Lost Pledged Land  
(by reservation)

<u>Reservation</u>	<u>Number</u>	<u>Acres</u>
Montana		
Blackfeet	1	833
Crow	0	0
Flathead	0	0
Fort Belknap	0	0
Fort Peck	0	0
Northern Cheyenne	0	0
Rocky Boys	<u>0</u>	<u>0</u>
Total	<u>1</u>	<u>833</u>
North Dakota		
Fort Berthold	2	470
Fort Totten	0	0
Standing Rock	1	160
Turtle Mountain	<u>0</u>	<u>0</u>
Total	<u>3</u>	<u>630</u>
South Dakota		
Cheyenne River	3	11,601
Pine Ridge	1	318
Sisseton-Wahpeton	<u>0</u>	<u>0</u>
Total	<u>4</u>	<u>11,919</u>
Total	<u>8</u>	<u>13,382</u>

Table 2.5  
Borrowers in Process of  
Losing Pledged Land  
 (by reservation)

<u>Reservation</u>	<u>Number</u>	<u>Acres</u>
Montana		
Blackfeet	0	0
Crow	1	93
Flathead	0	0
Fort Belknap	0	0
Fort Peck	0	0
Northern Cheyenne	0	0
Rocky Boys	<u>0</u>	<u>0</u>
Total	<u>1</u>	<u>93</u>
North Dakota		
Fort Berthold	23	9,085
Fort Totten	0	0
Standing Rock	6	2,824
Turtle Mountain	<u>0</u>	<u>0</u>
Total	<u>29</u>	<u>11,909</u>
South Dakota		
Cheyenne River	15	20,835
Pine Ridge	1	320
Sisseton-Wahpeton	<u>0</u>	<u>0</u>
Total	<u>16</u>	<u>21,155</u>
Total	<u>46</u>	<u>33,157</u>

Table 2.6

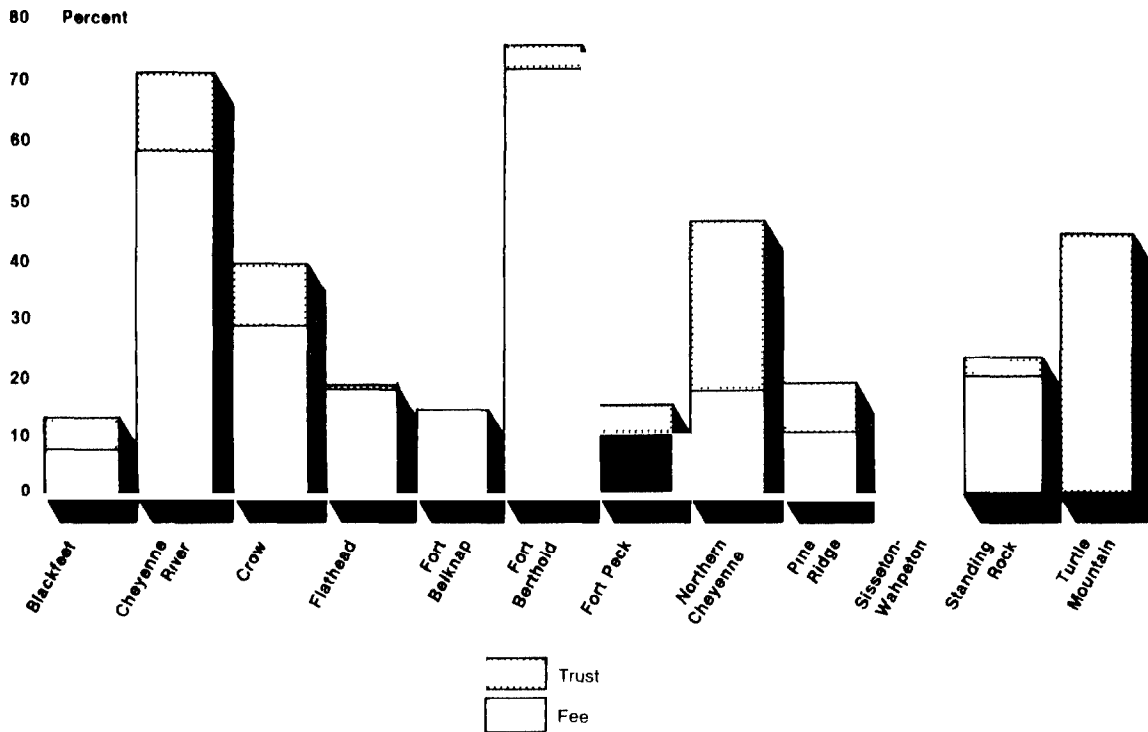
Borrowers Who May Lose Pledged Land  
(by reservation)

<u>Reservation</u>	<u>Number</u>	<u>Acres</u>
Montana		
Blackfeet	7	10,674
Crow	5	4,396
Flathead	3	1,718
Fort Belknap	4	3,300
Fort Peck	2	1,056
Northern Cheyenne	7	4,175
Rocky Boys	<u>0</u>	<u>0</u>
Total	<u>28</u>	<u>25,319</u>
North Dakota		
Fort Berthold	22	25,509
Fort Totten	0	0
Standing Rock	8	3,717
Turtle Mountain	<u>1</u>	<u>280</u>
Total	<u>31</u>	<u>29,506</u>
South Dakota		
Cheyenne River	30	33,996
Pine Ridge	9	10,090
Sisseton-Wahpeton	<u>0</u>	<u>0</u>
Total	<u>39</u>	<u>44,086</u>
Total	<u>98</u>	<u>98,911</u>



Figure 2.1

Percent of Pledged Land in the Process or at Risk of Being Lost, From August 1986 Through September 1988



PERCENT OF PLEDGED LAND IN THE PROCESS OR AT RISK  
OF BEING LOST, FROM AUGUST 1986 THROUGH SEPTEMBER 1988

On 12 reservations the percentages of pledged trust land and fee land that were in the process or at risk of being lost varied from a low of zero percent to a high of 75 percent. (Rocky Boys and Fort Totten reservations had no direct FmHA farm program borrowers.)

SECTION 3

OPTIONS AVAILABLE TO HELP  
INDIANS KEEP RESERVATION LAND



OPTIONS AVAILABLE TO HELP  
INDIANS KEEP RESERVATION LAND

FmHA SERVICING OPTIONS

When borrowers are delinquent, FmHA provides servicing actions in an effort to balance the interests of the individual and the government. FmHA's actions to help its borrowers pay their loans include such services as payment adjustments and financial counseling. During fiscal year 1985, the agency provided these services to over 29,000 delinquent borrowers.

On November 1, 1985, FmHA published regulations that provided additional options to delinquent borrowers in an effort to help them make their accounts current. The options, listed below, are included in FmHA form 1924-14, "Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities."

1. Deferral: Delay in regularly scheduled payments is approved.
2. Limited Resource Program: Credit is provided at an interest rate that is lower than FmHA's regular interest rate.
3. Consolidation: Similar loans made for operating purposes are combined and rewritten at new rates and terms.
4. Rescheduling: Loans made for operating purposes are rewritten at the interest rate of the original or current loan, whichever is less.
5. Reamortization: Loans made for real estate purposes are rewritten at the interest rate of the original or current loan, whichever is less.
6. Subordination: The FmHA lien is subordinated to the lien of another creditor.

7. Restructuring: A portion of the borrower's assets is sold to restructure the business and its debt.

FmHA provided servicing actions to the 46 Indian borrowers who were in the process of losing 33,157 acres. FmHA county officials estimated that despite FmHA's loan-servicing options, 98 additional Indian borrowers may be unable to avoid the loss of 98,911 acres of pledged land by September 1988.

#### OTHER POTENTIAL RESOURCES

Delinquent FmHA borrowers may individually seek assistance from other sources, such as commercial lending institutions, BIA, and Indian tribes. Few delinquent FmHA Indian borrowers, however, can obtain loans from commercial lenders; and BIA and tribal resources to help Indians bring loans current are limited.

Commercial lenders, such as banks, may assist Indian borrowers through direct loans and FmHA-guaranteed loans. FmHA county offices that serve the 14 reservations in our study reviewed their June 1986 FmHA-guaranteed loan status reports and found that 4 Indian borrowers on 2 reservations had FmHA-guaranteed commercial loans. FmHA officials said that many commercial lenders are reluctant to loan funds to Indians because of perceived difficulties in recovering loan funds or in gaining access to loan security in case of default.

BIA may also make direct loans to Indian borrowers and guarantee loans that other lenders make. However, BIA officials said that few, if any, funds were available to lend. For example, the staff at one office said that their revolving fund had been exhausted because Indian borrowers were not making their loan repayments. In addition, a BIA 20-percent equity requirement (i.e., the borrower must have 20 percent of the loan amount in cash or unencumbered assets) limits the ability of financially stressed borrowers to qualify for BIA loans.

Because individual FmHA borrowers are protected from FmHA's disclosure of their loan status, the tribes may not learn about foreclosures or voluntary conveyances until such actions are in process or have occurred. Therefore, individual tribal members must take the initiative to seek assistance from tribal governments. Even then, most of the tribes included in our review had limited or no available funds.

Land that FmHA Indian borrowers lose through foreclosure or voluntary conveyance may be purchased by the tribes. As discussed in section 4, some tribes have used FmHA's ITLAP for this purpose. However, according to tribal officials, because the tribes must borrow the funds to make the purchases, they must lease the land in order to make the loan payments. Because of the lagging farm economy, tribes, according to tribal officials, must buy only productive lands. Lands that individual Indians have pledged to FmHA may not fit that category.

SECTION 4

FmHA's INDIAN TRIBAL LAND ACQUISITION PROGRAM

## FmHA's INDIAN TRIBAL LAND ACQUISITION PROGRAM

### BACKGROUND AND SECTION SUMMARY

ITLAP, instituted in 1971, authorizes FmHA to make loans to Indian tribes and tribal corporations to purchase lands within their reservations. (Where the reservation has multiple tribes, loans are made to the joint governing unit.) ITLAP regulations stipulate that purchased land be used to benefit tribal members and that income from the land be committed to repay program loans.

Nationwide, as of July 1986, 107 ITLAP loans totaling about \$92 million had been made to tribes on 30 reservations. Loans have been made in every year since 1971, with 1976 and 1977 having the greatest loan activity of about \$12.5 million each. Program loans in fiscal years 1983, 1984, and 1985 totaled about \$4.8 million, \$2.2 million, and \$1.5 million, respectively. As of January 20, 1987, FmHA had three loan applications pending, totaling \$6.5 million.

Ten of the 14 reviewed reservations have participated in the program, and loans to them represent a significant portion of the program's total activity. Through October 1986, the tribes on these 10 reservations had received 60 loans for \$51.7 million, purchasing 621,281 acres. The tribes leased most of this purchased land to both Indians and non-Indians for agricultural purposes. Only 408 acres were tribally operated.

The participating tribes had generally made ITLAP loan payments on time and in full. For 512 payments due through 1985, 496 were made in full within 90 days of the date due.

Tribal representatives' comments about the program were mixed. Several indicated that their tribes were interested in obtaining future loans. They also identified program strengths, methods for improvement, and obstacles to their tribes' program participation.

Table 4.1

Indian Tribal Land Acquisition Program  
Loans on the Specified Reservations  
as of October 1986

<u>Reservation</u>	<u>Number of loans</u>	<u>Principal amount</u> (thousands)	<u>Acres purchased</u>
Blackfeet	9	\$ 4,891	61,717
Cheyenne River	2	2,000	34,953
Crow	4	4,548	39,814
Flathead	0	0	0
Fort Belknap	0	0	0
Fort Berthold	5	2,000	26,871
Fort Peck	11	6,000	64,945
Fort Totten	3	3,250	12,869
Northern Cheyenne	1	250	2,839
Pine Ridge	14	19,000	300,002
Rocky Boys	0	0	0
Sisseton-Wahpeton	4	5,484	24,515
Standing Rock	7	4,250	52,756
Turtle Mountain	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>60</u>	<u>\$51,673</u>	<u>621,281</u>

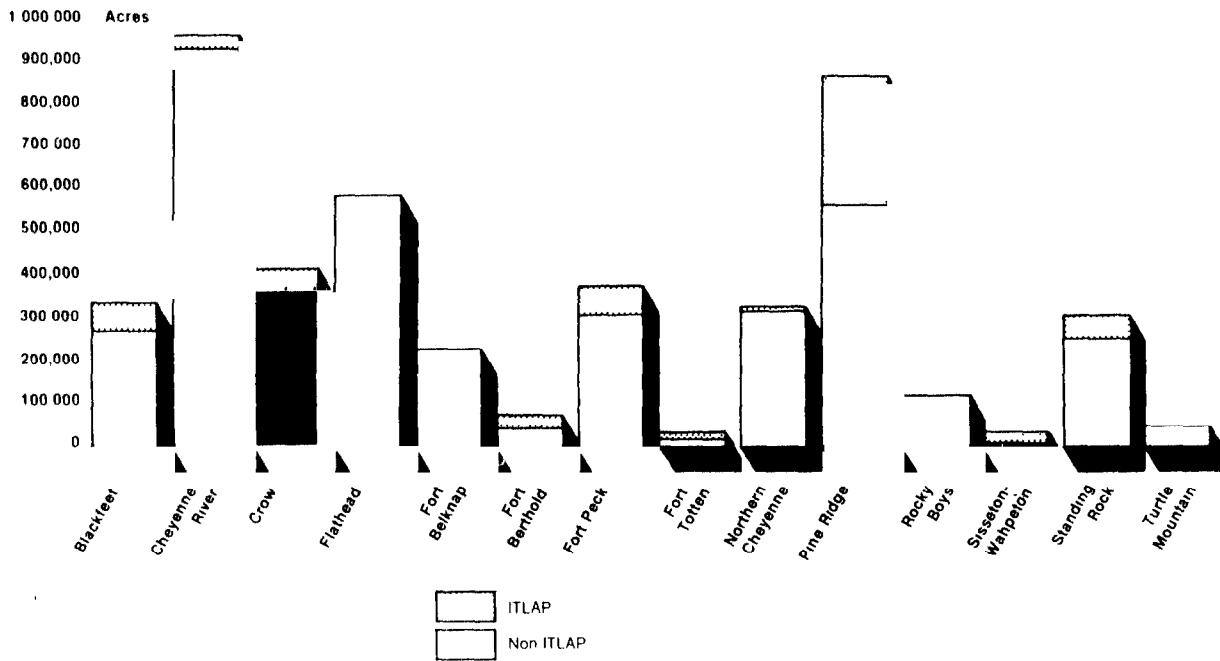
## ITLAP LOANS MADE ON SPECIFIED RESERVATIONS

Through October 1986, 60 program loans for a total of \$51.7 million had been made on 10 of the 14 reservations, primarily for agricultural purposes. Of the 10 reservations, Pine Ridge has been the largest user of ITLAP, with \$19 million in loans used to purchase 300,002 acres. Although the tribes lease most of the purchased land to tribal members, the percentage of land leased to Indians and non-Indians varies from reservation to reservation. For example, on one reservation, tribal members have first option to lease at lower-than-market rates. In this case, about 99 percent of the program lands are leased to tribal members, with the remainder leased to the highest bidders.

Tribes on four of the reservations had not participated. Two tribes had chosen not to participate, one because of the lack of flexibility in loan repayment schedules and the other because the tribe was able to purchase land using other funds. The tribe on a third reservation had applied for a program loan but FmHA denied its loan application citing management weaknesses. The fourth reservation's nonparticipation was attributed to unawareness of the program.

Figure 4.1

The Portion of Tribally Owned Trust Land  
Purchased With ITLAP Funds





THE PORTION OF TRIBALLY OWNED TRUST  
LAND PURCHASED WITH ITLAP FUNDS

A significant portion of tribally owned trust land on the 10 reservations was purchased with program funds. The percent of tribally owned trust land purchased with program funds ranges from Northern Cheyenne's 1 percent to Sisseton-Wahpeton's 93 percent.

## TRIBAL COMMENTS ABOUT ITLAP

### Strengths

Several representatives stated that ITLAP funds had enabled their tribes to purchase land that would otherwise have gone out of trusts and to expand their reservation land bases. In addition, tribes have been able to consolidate land fragments once owned by multiple tribal members into tribally held tracts that are easier to manage.

### Obstacles

Tribal representatives described the following obstacles:

- Interest rates are high in relation to anticipated lease revenues.
- The loan application process is long and cumbersome. An example cited had been in process over 2 years.
- Repayment schedules are seldom adjusted, particularly during a period of a falling agricultural economy.
- Tribal laws may prohibit the use of reservation lands as security.
- The instability of the agricultural economy increases the risk of being unable to repay loans on schedule from revenues generated by program-purchased land.
- Limited tribal resources preclude some tribes from repaying loans from other funds, should program-purchased land fail to generate sufficient revenue.

As agreed with the committee, we did not attempt to independently verify or determine the severity of the problems

because the committee is interested in pursuing the bases and reasons for the comments during upcoming hearings.

Suggestions for improvement

While tribal representatives said that some obstacles lie outside the program, they suggested that FmHA

- lower interest rates,
- streamline and accelerate the application process,
- keep tribes informed about the status of their loan applications,
- ease the collateral requirements to eliminate the need for mortgaging reservation land, and
- provide flexible repayment schedules based on fluctuations in the agricultural economy.

TRIBAL INTEREST IN FUTURE USE OF ITLAP

Tribes on 6 of the 14 reservations were planning to use the program and 2 of the 6 had applications pending. Tribes on six reservations would consider using the program in the future, and those on two reservations were unlikely to use it.

As of January 20, 1987, tribes on the Fort Berthold and Cheyenne River reservations had loan applications of \$4 million and \$1.5 million, respectively, pending with FmHA. (Nationwide, only one other application was pending at that time. The Crow Creek in South Dakota had applied for a \$1 million ITLAP loan.)

Fort Belknap reservation tribal representatives said that the tribes on that reservation were interested in using program loans to purchase about 33,000 acres for an estimated \$5.6 million.

The tribes of the Blackfeet, Crow, Northern Cheyenne, Pine Ridge, Sisseton-Wahpeton, and Turtle Mountain reservations would consider using the program in the future.

Tribal representatives for two reservations said that their tribes were unlikely to use the program because of one or more of the various obstacles described earlier.



SECTION 5

FmHA AND BIA INTERACT WHEN  
INDIANS PLEDGE TRUST LAND  
FOR FmHA LOANS

## SECTION SUMMARY

- o When an Indian applies for an FmHA farm loan, FmHA and BIA interact only when the applicant pledges reservation trust land as security. FmHA and BIA national policy is that FmHA state and BIA area office or local officials will work together to cover this situation.
  
- o For trust land that is pledged, the FmHA and BIA offices included in our review had established interagency agreements and instructions for BIA's
  - role in furnishing title status to FmHA,
  
  - approval of the mortgage on the land,
  
  - input about loan applicants, and
  
  - assistance when a delinquent borrower voluntarily conveys the trust land to FmHA.
  
- o Informal interactions between the two agencies at the local level have taken place.

## FmHA AND BIA INTERACTION

Since FmHA instructions prescribe consistent treatment of Indian and non-Indian applicants and borrowers, no requirement exists for FmHA and BIA to interact unless Indian borrowers pledge reservation trust land as security for a farm program loan. When trust land is pledged, FmHA local offices handling the loan application must exchange information with the BIA agency and area offices about the land being pledged. This requirement is included in FmHA and BIA national and FmHA state agreements signed by FmHA and BIA.

In 1979 FmHA issued Instruction 2000-X, Joint Statement by the Department of Agriculture and the Department of the Interior. The statement declared that since working relationships between FmHA and BIA were well established and were understood by field personnel, prior special detailed procedures relating to FmHA loans secured by trust land were no longer needed. It spoke in general terms about BIA's sharing information about property and loan applicants and assisting FmHA as needed. Instruction 2000-X called for FmHA state directors to work out implementation with the BIA area office or local BIA official.

FmHA state offices in each of the three states covered in our review had issued FmHA instructions about loans to individual Indians, including provisions for FmHA interaction with BIA when loans are to be secured by trust land. The instructions vary in scope and detail but include such things as BIA's role in furnishing title status to FmHA and in approving the mortgage. Two state instructions mention in general terms only that BIA will give limited aid to FmHA in servicing loans and will assist FmHA with conveyance of mortgaged property if needed. Since property loses its trust status when it undergoes foreclosure, BIA does not have a role during that process. The other state instruction did not mention the role either agency would play in servicing a loan.



FmHA and BIA offices servicing one of the six reservations that we visited also had a local agreement about their interaction. In this case, FmHA's North Dakota office had a memorandum of understanding with one BIA agency office regarding loan servicing, including an agreement that FmHA will notify BIA when a loan must be liquidated. The same agency office also had an informal but documented agreement with the local FmHA county office about what each organization will do when an Indian pledges trust land for an FmHA loan. These offices also cooperated in a summer 1986 meeting with tribal representatives for the reservation they serve to discuss the critical condition of FmHA loans in their area.

Representatives from other FmHA and BIA offices reported that interagency working relationships occur as prescribed in FmHA state instructions--primarily when processing farm loan applications. They indicated that BIA has not serviced FmHA loans.

SECTION 6

VIEWS ON SHIFTING FmHA LOAN FUNCTIONS  
TO BIA FOR FARM LOANS MADE TO INDIANS

VIEWS ON SHIFTING FmHA LOAN FUNCTIONS  
TO BIA FOR FARM LOANS MADE TO INDIANS

We obtained FmHA and BIA officials' views on possibly transferring the entire farm loan process from FmHA to BIA for Indian borrowers.

FmHA's VIEWS

FmHA's headquarters officials said that shifting FmHA functions to BIA for FmHA farm loans to Indians would require congressional action. They cited a similarity between this proposal and one that the FmHA Administrator addressed in his April 18, 1986, letter to the National Tribal Chairmen's Association. In that letter, the Administrator held that FmHA does not have--nor does it expect to receive--congressional authority to transfer accounts from one Department to another.

BIA's VIEWS

The Acting Deputy to the Assistant Secretary--Indian Affairs (Trust and Economic Development) told us that BIA does not have the staff capability to process and service FmHA loans. He said that hiring and training new personnel would be constrained by a lack of funds and time. In addition, he noted that BIA could offer no more assistance to financially stressed borrowers than FmHA currently provides through its loan-servicing options.

STATUS OF ACREAGE ON 14 RESERVATIONS

<u>Reservation</u>	<u>Tribally owned trust</u>	<u>Individually owned trust</u>	<u>Pledged as security</u>	
			<u>Trust</u>	<u>Fee</u>
Montana				
Blackfeet	257,347	683,361	32,514	48,275
Crow	407,818	1,112,397	7,704	3,822
Flathead	578,307	46,621	2,346	6,857
Fort Belknap	185,363	403,393	23,411	435
Fort Peck	391,769	517,620	6,198	963
Northern Cheyenne	316,084	120,864	5,623	3,383
Rocky Boys	<u>108,015</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>2,244,703</u>	<u>2,884,256</u>	<u>77,796</u>	<u>63,735</u>
North Dakota				
Fort Berthold	68,821	350,377	43,383	2,480
Fort Totten	16,189	36,675	0	0
Standing Rock	351,535	494,756	20,870	8,096
Turtle Mountain	<u>8,618</u>	<u>24,489</u>	<u>0</u>	<u>649</u>
Total	<u>445,163</u>	<u>906,297</u>	<u>64,253</u>	<u>11,216</u>
South Dakota				
Cheyenne River	954,398	441,332	50,543	27,078
Pine Ridge	706,186	1,077,555	28,485	27,886
Sisseton-Wahpeton	<u>16,864</u>	<u>91,194</u>	<u>0</u>	<u>0</u>
Total	<u>1,677,448</u>	<u>1,610,081</u>	<u>79,028</u>	<u>55,138</u>
Total	<u>4,367,314</u>	<u>5,400,634</u>	<u>221,077</u>	<u>130,089</u>
Total	<u>9,767,949</u>	<u>11,351,166</u>		

Lost or at risk of loss						Pledged land in process and at risk (percent)	Reservation trust land in process and at risk (percent)
Past		In process		Predicted			
Trust	Fee	Trust	Fee	Trust	Fee		
0	833	0	0	6,260	4,414	13	0.67
0	0	93	0	3,160	1,236	39	0.21
0	0	0	0	1,678	40	19	0.27
0	0	0	0	3,300	0	14	0.56
0	0	0	0	736	320	15	0.08
0	0	0	0	1,575	2,600	46	0.36
<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	0	0.00
<u>0</u>	<u>833</u>	<u>93</u>	<u>0</u>	<u>16,709</u>	<u>8,610</u>	18	0.33
470	0	8,611	474	24,229	1,280	75	7.95
0	0	0	0	0	0	0	0.00
0	160	2,184	640	3,517	200	23	0.67
<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>280</u>	44	0.00
<u>470</u>	<u>160</u>	<u>10,795</u>	<u>1,114</u>	<u>27,746</u>	<u>1,760</u>	55	2.89
7,240	4,361	17,315	3,520	27,316	6,680	71	3.72
318	0	320	0	5,430	4,660	19	0.34
<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	0	0.00
<u>7,558</u>	<u>4,361</u>	<u>17,635</u>	<u>3,520</u>	<u>32,746</u>	<u>11,340</u>	49	1.76
<u>8,028</u>	<u>5,354</u>	<u>28,523</u>	<u>4,634</u>	<u>77,201</u>	<u>21,710</u>	38	1.17
<u>13,382</u>	<u>0</u>	<u>33,157</u>	<u>0</u>	<u>98,911</u>	<u>0</u>		

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