

**STATEMENT OF TERRY VIRDEN**  
**DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES**  
**BEFORE THE**  
**SENATE COMMITTEE ON INDIAN AFFAIRS HEARING**  
**ON S. 1148, THE YANKTON SIOUX TRIBE**  
**AND SANTEE SIOUX TRIBE OF NEBRASKA**  
**DEVELOPMENT TRUST FUND ACT**

**May 17, 2000**

Good afternoon, Mr. Chairman and Members of the Committee. I am pleased to be here today to present the Administration's views on S. 1148. I want to thank Senator Daschle for introducing this important bill that addresses impacts to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska resulting from the Pick-Sloan Missouri River Basin program and in particular the development of the Fort Randall and Gavins Point projects. If enacted, this bill would give the Tribes much deserved benefits to compensate for those impacts. While the Administration supports compensating the Tribes, we are concerned that the compensation figures on a per acre basis are significantly higher than those awarded previously to other Tribes that were compensated for losses resulting from the Pick-Sloan program. We look forward to working with the Committee to discuss these values and the rationale behind the amounts awarded under S. 1148.

S. 1148 is a continuation of the United States' honorable efforts to correct inequities resulting from a regional Federal project which severely affected Indian tribal homelands along the Missouri River. In the early 1990's the United States forthrightly addressed impacts to the Standing Rock Sioux Tribe and the Three Affiliated Tribes of the Fort Berthold Reservation. In 1996 and 1997, respectively, it addressed the impacts to the Crow Creek Sioux Tribe and the Lower Brule Sioux Tribe. S. 1148 addresses and mitigates the impacts of the Missouri River Basin Pick-Sloan Project on the remaining two Tribes.

The history of the Project is relatively well known. In 1944, the United States undertook the challenge to reduce flooding in the lower Missouri River Basin through the construction of monumental dams capable of harnessing the seasonal raging flows of the Missouri River. In addition, these dams could generate electrical power and needed hundreds of thousands of acres of land to serve as reservoirs for the storage of water over time to release as necessary. So great was the water resource that a whole regional economy grew from the electric power generated by these dams.

The pre-project tribal economy, however, was based on working the rich wooded bottom lands along the Missouri River. These lands were flooded for the reservoir, and the Tribes have never seen the former economy again. In addition, the importance of cultural treasures lost to inundation is now well-known.

In the 1950's the Yankton Sioux Tribe and its affected tribal members received a total of \$227,510 from the government for damages associated with the Fort Randall Project. Of this amount \$121,210 was awarded them by the U.S. District Court for direct damages as the result of condemnation proceedings filed before the federal district court by the Army Corp of Engineers. Congress authorized

the appropriation of an additional \$106,500 in 1954 to be available for relocating the Yankton Sioux tribal members who resided on tribal and allotted lands. Unfortunately the Yankton Sioux Tribe did not receive any additional funding for a rehabilitation program. This bill proposes to provide them with \$34.3 million in additional compensation for the loss value of 2,851.40 acres of land taken for the Fort Randall Dam and Reservoir, and for the use value of 408.40 acres of Indian land on the reservation that the Tribe lost as a result of stream bank erosion that has occurred since 1953.

Information concerning the amount paid to the Santee Sioux condemnation settlement is sketchy because the court docket records are missing from the records of the U.S. District Court in the National Archives. It appears that the tribe may have been paid \$52,000 on the basis of the Tribe's 1955 agreement with the Army Corps of Engineers. We do not know when the settlement money may have been distributed to the individual landholders. Like Yankton, the Santee Sioux did not receive any rehabilitation program funds either. This bill proposes to provide them with \$8.1 million in additional compensation for the loss value of 593.10 acres of land located near the Santee village, and for 414.12 acres on Niobrara Island of the Santee Sioux Tribe Indian Reservation used for the Gavins Point Dam and Reservoir.

The Administration could support S. 1148 with amendments. First, the funding mechanisms in section 4(b) for the Yankton Sioux Tribe Development Trust Fund and in section 5(b) for the Santee Sioux Tribe of Nebraska Development Trust Fund would be subject to pay-as-you-go requirements of the Omnibus Budget and Reconciliation Act of 1990, as amended. The Administration is concerned that any amounts required to establish the Funds would need to be offset. As noted in our statement on the Cheyenne River Sioux Tribe Equitable Compensation Act during the 105th Congress, this type of financing mechanism appears to be without cost when in reality it is not free. A more straight forward approach would be to rely on the authorization/discretionary appropriations process to establish the Funds. We are willing to work with the Committee on developing a viable solution.

Second, we recommend that Section 6 be amended to add a subsection (d) which would prohibit per capita payments to tribal members. A similar prohibition was included in the earlier Pick-Sloan project compensation Acts. The suggested amendment is as follows:

Section 6(d) PROHIBITION ON PER CAPITA PAYMENTS. - No portion of any payment

Made under this Act may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

Our final recommendation is to include a new section which would address any further claims of the Tribe against the United States. We submit the following:

#### Sec.10. EXTINGUISHMENT OF CLAIMS

Upon the deposit of funds under sections 4(b) and 5(b), all monetary claims that the Tribe has or may have against the United States for loss of value or use of land related to lands described in Section 2(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

This concludes my testimony in on S. 1148. I will be happy to answer any questions you may have.