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Wednesday morning, December 11th, 1957:

The Chairman:

Will you please call the roll?

Carl Beyal:

Called the roll. 68 Council members present.

The Chairman:

We have a quorum of the Council members present so we will proceed with the Council work.

At this time we will ask Roger Davis to give the invocation please.

Roger Davis:

Delivered the invocation in the Navajo tongue.

The Chairman:

We have been told this morning that Mr. Littell was not feeling well. We know that he had been sick in Washington but he felt well enough to leave and probably overdid again yesterday and this morning he is on his way to see a Doctor to determine whether he should be here or not, but we have a Resolution discussed by the Council last night for some action the first thing this morning, but we will have to by-pass that and take up the proposed Resolution urging the authorization by Congress on the Navajo Indian Irrigation Project, so that will be taken up and the proposed Resolution at this time will be read by Mr. Davis.

Laurence Davis:

Mr. Chairman and Members of the Navajo Tribal Council: We have here a proposed resolution of the Navajo Tribal Council urging authorization by Congress of the Navajo Indian Irrigation Project and the San Juan-Chama Project in New Mexico and approving in principle legislation proposed for this purpose. So that you can follow this long Resolution, it might be well for me to read a paragraph at a time and have it interpreted a paragraph at a time. I believe Mr. Begay should pass out copies of this Resolution to the latecomers.

Laurence Davis: (reading)

Urging authorization by Congress of the Navajo Tribe Irrigation Project and the San Juan-Chama Project in New Mexico and approving in principle legislation proposed for this purpose.

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WHEREAS:

1. The Congress of the United States by Public Law 485, 84th Congress, 2d Session, 43 U.S.C. #620, has authorized the Upper Colorado River Storage Project, which includes the Navajo Dam in New Mexico, and has appropriated funds for the actual construction of this dam; but has not yet authorized the proposed Navajo Indian Irrigation Project, which, however, is listed in Public Law 485 for priority of study by the Secretary of the Interior in order to determine its feasibility for later authorization as a participating project of the Upper Colorado River Storage Project.

*see page 57*

Laurence Davis (speaking)

I want to call to your attention that where it says that Congress has appropriated funds for the Navajo Dam, that does not mean there have been funds appropriated enough to finish the dam but just enough to start it.

The Chairman:

I would like to refer back to the proposed Resolution on McCracken Mesa in exchange for the Glen Canyon Dam. The proposed Resolution that was read last night will be taken up next since the irrigation matter we are on now would take a good portion of the day and Mr. Littell would like to get this out of the way.

Paul Begay:

Mr. Chairman and Members of the Council: Ladies and Gentlemen: We have the proposed Resolution that has been read to us. We all realize it has been read to us but there is another Resolution here before us that should be adopted. In other words, it is only in District 1 there will be exchange for McCracken Mesa, but it has never been mentioned in District 2 which is Navajo Canyon and Piute Canyon. All these canyons have been used by the Navajo Tribe's livestock operators. It is good grazing land in there in Winter time, and good farming land and orchards and houses, and, therefore they said if they put the dam in that the water would back up 120 miles close to Mexican Hat. There is no doubt the water will back up in Navajo Canyon way over one-half way. There is no doubt but that Piute Canyon will be full of water so, therefore, my friends and delegates, that is all I am worrying about, that Mr. Van Valkenburgh promised me to go out there and survey this land out and see how many acres should be covered with water. That has never been done and therefore it should be mentioned in this Resolution. That is all I am worried about, delegates. I want you guys to think this over for me and help me out to have it mentioned in this Resolution somehow.

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Howard Gorman:

Mr. Chairman and Members of the Council: Yesterday we exhausted much time and expense on this Bill. It is a six page document and was read to the Tribal Council and I think we got a pretty clear picture of the meaning of this Bill and what it is.

Now, we have also a three page Resolution supporting this Bill. That is the Resolution that will be acted upon by the Tribal Council and it has not been read to the Council as yet. After it has been read, then you will notice that in the "Now Therefore Be It Resolved" clauses, in Paragraph No. 2, that the Chairman and General Council of the Tribe be and they hereby are authorized to negotiate, agree upon, accept and approve any amendments in the language of this proposed Act deemed necessary or advisable to accomplish the purpose of this and the above mentioned Resolutions of this Council and to give full support to the passage of this Act when the provisions have been agreed upon in final form before the appropriate committees of Congress pursuant to the authority heretofore given in the above-mentioned resolutions as amended herein. I believe in this paragraph everything is spelled out. I do not believe that Mr. Begay has anything to worry about. We were told yesterday by a very reliable source that the construction of the dam will take seven years and then it will take 15 years more to fill the reservoir so, therefore, I do not think we have anything to worry about. I believe that this Bill is pretty well understood by the Councilmen and, after the Resolution has been read, I think we will understand it more and better. Furthermore, I think it is spelled out without having too many incidentals. If we have this Resolution read, I think the whole thing will come out a little clearer. Thank you very much.

The Chairman:

I think when Mr. Van Valkenburgh was alive, Ed Plummer did some work in there and tried to find out the number of our people who would be affected, as far as the land being inundated by this water, and some understanding can be gotten from that and it is suggested by Mr. Littell to insert a paragraph in the Resolution, to have a Committee investigate and determine the amount of damage that might be done in the grazing area, cultivated area and to the homes and report that to the next Council meeting and I think that will help to a great extent the question raised by Mr. Paul Begay.

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Pipeline Begishe:

Mr. Chairman and Members of the Tribal Council: In discussing the proposed land exchange and the building of the Glen Canyon Dam, I would like to state this much: Last year I stated in here that not all of us representing that area had expressed our views about these proposed projects and plans. I felt not all of us had spoken on it and again I feel we must bring up points that were never brought out at that time. It is true that Mr. Gorman has just read us a portion of this Resolution which covers perhaps some of the little problems that are confronting us. Still we do not feel it is quite enough. Mr. Edward Manson did explain his people are now blaming him for the entire project; that he was instrumental in initiating that project in that area. I am pretty sure this would apply to other Council delegates representing that area. Very few of the people seem to be aware of the fact that the building of the dam would create such a large reservoir. They do not seem to comprehend the fact that such a huge dam would be built and such a huge reservoir would be realized. Only when they see it would they realize that these were the very things the delegates had been talking about in the past so I would like to state here that since many of these plans and proposals have been discussed and we have gone perhaps half way through the matter, that it is rather too late to go back. Instead I would go along with Mr. Paul Begay's remarks saying that the naming of those canyons should be written in these documents thereby showing the people in there were not left out. That is, the people of District 2 along with District 1.

Also, yesterday we were shown a map which showed an area which was suggested by Mr. Van Valkenburgh, but then, we were also shown a red outlined area that was suggested by the Secretary of the Interior. I just wonder why that had happened without bringing that matter back to the General Council. Why were we left adrift while this additional portion of land was inserted? Mr. Krause had also stated there would be very minor adjustments in the way of livestock in that area when the building of the dam is completed. I do not think that is quite correct because once they have built that area up and made all the necessary improvements, they will eventually fence it up. Once they do that, there would be no way for our people to make use of some of those range area. I know this because whenever the white people make improvements, they fence it up to safeguard them, whereas if the Navajo people make improvements, they do not fence them in. There will not be minor adjustments but there will be a great adjustment that may be necessary. Then, recently, at one of the gatherings over in the Glen Canyon vicinity, people have expressed their feelings

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by saying that Mr. Manson's son was the person responsible for the planning of the project in that area. Some of those people who have said those things were very clearheaded and I do not blame them very much. Of course, our legal attorney has advised us that this building of the project would happen eventually no matter what we may say. That perhaps is true but still, I would like to have shown in these written documents that District 2 area is pretty much affected and I request that our Chairman and you Council members to consider that and see if we cannot have it inserted before we make our approval on this.

The Chairman:

The resolution should be read by Mr. McCabe and there will be an additional portion dealing with that suggestion of Mr. Begay's regarding the damage sustained by the people by the water backing up in the two canyons mentioned and I think the new paragraph should definitely take care of the request of Mr. Begay.

J. Maurice McCabe: (reading)

PROPOSED RESOLUTION  
OF THE NAVAJO TRIBAL COUNCIL

Approving Bill for Exchange of Lands Between the Tribe and the United States Government of the Glen Canyon Dam Site and the McCracken Mesa area, San Juan County, Utah.

WHEREAS:

1. The Council has heretofore approved the exchange of the Glen Canyon Dam Site area for equal acreage in McCracken Mesa area, with mineral rights excluded from the exchange in both areas, all pursuant to resolutions of January 29, 1957 (CJ-1-57) and March 20, 1957 (CM-38-57), and
2. An appropriate act of Congress has been drafted by the Solicitor of the Department of the Interior and the General Counsel of the Tribe and members of their respective staffs for submission to the Secretary of the Interior and to this Council, respectively, as heretofore read to the Council, and
3. It is in the best interests of the Tribe and in aid of the policy of the Tribe to make available to Navajos who have lived in San Juan County, Utah outside of the Navajo Reservation subject to harassing conflicts with ranchers in that area and the Bureau of Land Management, an opportunity to settle within the area to be added to the Reservation by this land exchange, under rules and regulations to be adopted by this Council with the approval of the Commissioner of Indian Affairs, all as contemplated by the proposed act, and



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Further changes in the language of this proposed act may have to be agreed upon by and between the Tribe's officers, the Tribe's attorneys, and the officers and attorneys of the Department of the Interior, and it is in the best interests of the Tribe to authorize such negotiations and changes.

NOW THEREFORE BE IT RESOLVED THAT:

1. The proposed act authorizing the exchange of the Glen Canyon Dam site area for the McCracken Mesa area to be ceded to the Tribe and added to the Navajo Reservation by the United States be and the same hereby is ratified and approved in principle, and

2. The Chairman be and he hereby is authorized and requested to have the Bureau of Reclamation by and with the aid of the Land Use and Survey Section of the Tribe, to report to the Council at the next meeting and advise the Council as to what areas of Navajo lands may be flooded by the reservoir and what effect said flooding may have upon Navajo grazing areas.

3. The Chairman and the General Counsel of the Tribe be and they hereby are authorized to negotiate, agree upon, accept and approve any amendments in the language of this proposed act deemed incidental, necessary or advisable to accomplish the purposes of this and the above-mentioned resolutions of this Council, and to give full support to the passage of this act when the provisions have been agreed upon in final form before the appropriate committees of Congress pursuant to the authority heretofore given in the above-mentioned resolutions as amended herein.

Paul Begay:

Mr. Chairman and Members of the Council: I see now that we have inserted the portion that I have been after in this proposed Resolution that has just been read. However, I am not satisfied due to the fact that it has not been inserted in the proposed Bill that is before us. That is, it is not written in this six page document that was read to us yesterday. I feel that some wording should be inserted just like it has been done in this Resolution. Otherwise, I am pretty sure there will be conflicting wording if this is not done.

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The Chairman:

We will ask Mr. Littlell to comment on that.

Norman Littlell:

Paul, you never in the world could get that in the Bill. The Bill is not something that we draft. That is something stipulated to by many different parties and it has no proper place in this Bill for the reason I will explain to you: It has a very proper place in the resolution and I drafted it pursuant to your request because this resolution expresses the will and wish of the Navajo people. Nothing was done without your authority. Somebody asked a question here a few minutes ago as to how this came up with the Secretary. It was all done pursuant to the resolution and the stipulation as to the lands carefully worked out by Van, again was accomplished between powerful conflicting forces that do not want you to get anything!

The Chairman:

We will have a recess for ten minutes.

(Whereupon, at 10:20 a.m., a ten minute recess was taken.)

The Chairman:

We will continue with our meeting now.

Norman Littlell:

Mr. Chairman and Members of the Tribal Council: The thing you will have to get clearly in mind, Paul, is that under the laws of the United States and under the Constitution of the United States people, whose property is taken for a public purpose, get compensated. We have always conducted the negotiations with the Reclamation Service, as Larry Davis again reminds me, on the basis that the land belongs to the Tribe but every hogan and improvements of that character are taken from individual Navajos and the Government will compensate them the same as they would compensate me if they took my home in Virginia. Only 15,000 acres apparently is really to be held close and it seems the Navajos will go on using their improvements and using their grazing over there as far as the grazing area is concerned so they have not been hurt yet.

Now, as to the flooded area, the new paragraph of this resolution requires that this be reported to you. That is, like the flooded areas in hundreds of other similar projects all over the country in which people are compensated if their homes are destroyed or flooded or removed. They are compensated under the Constitution and as a matter of basic law and

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Reclamation law, not in this Land Exchange Act, but in the Upper Colorado River Act, which is the next item on the Agenda and these men are waiting here to tell you about this, so let us get these axes sorted out and get the right ones before us. We are now talking about the Land Exchange Act and it is perfectly proper that you have a report brought to you by the Reclamation Service with the aid of the Land Use and Survey Section to see what the damages may be, but nobody can tell you what the damages will be ten or fifteen years from now - ten years to construct and fifteen years to flood - and that is too much for any of us.

Howard McKinley:

Mr. Chairman and Fellow Councilmen: I have a question in reference to the mineral rights. As stated here in this resolution and also stated in the Bill, that mineral rights will be excluded and that mineral rights will be retained by both parties but it seems to me, if I remember correctly, the original exchange agreement stated definitely the Tribe would not have any mineral rights whatsoever in the submerged lands and when you consider the acreage in the submerged land, 38,000 plus, the buildings and land sites and all, it seems to me your mineral rights are restricted to a very few acres so, if that is true, it is not fair to say that both parties are retaining their mineral rights, whereas the land in the McCracken Mesa area the Government reserves all that. We do not have any mineral rights there whatever. It seems to me we have a conflicting statement here.

Norman Little:

There is no difference between the language of the Act in Section 1, whereby the Secretary agrees to transfer the McCracken Mesa area to the Tribe exclusive of the minerals therein and Section 2, on page 4, where the Tribe's interest in Glen Canyon Dam is transferred to the Government exclusive of minerals therein. Just underline those words on Page 1 of the Act, eight lines down - the concluding words "exclusive of minerals therein." Just underline that. Then, turn to page 4, Section 2, which begins in the middle of the page and, in the third line underline "exclusive of minerals therein."

Now you will remember we had a pass at this, trying to get the minerals because the minerals in the McCracken Mesa are worth a few million dollars and there are no known minerals in the Glen Canyon dam site. It would have been a nice deal if we could have made it. This was explained to the Council and you approved the exclusion of minerals on March 20th, 1957, recited in the first paragraph of this resolution. We cannot have everything but we did get this treatment of minerals in McCracken Mesa area in which the Government in this draft has agreed to close the area from all mineral entries, except the



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oil leases and mines, if any, that are perfected there. You cannot put them out but they will close it to new entries for ten years, giving the Navajos a chance to settle and adjust there.

Now, on the Glen Canyon Dam area, you reserved the minerals and in the last proviso, on page 4, it says in practical effect that you cannot make a mineral lease or exploration arrangement except under reasonable regulations of the Secretary of the Interior. That is because there is going to be a townsite there. That townsite, however, will occupy a very limited area of 53,000 acres and if any minerals are discovered over there and if anybody wants to go and look for some, you cannot be deprived of the right to have those minerals developed, not ten years later, but any time and under such conditions and with such reasonable restrictions - I got the word "reasonable" in there - as the Secretary may prescribe. It is about as good a deal as you could get. At least, it is the best we could get for you so, aside from that townsite, Howard, I think mineral development if and when any mineral or oil company would want to take a look at that area, you could go forward at any time.

The Chairman:

Are there any other questions on this?

Ned Plummer:

Mr. Chairman, Fellow Council Members and all those present: I have a brief question I would like to ask here about this Resolution which is before us. This is especially about the new paragraph that has been inserted. While we were discussing the river rights, etc., we have been told and have assumed that one-half of the water is ours; that we have the rights on it. After this dam is constructed and the reservoir filled, certainly there would be places established for recreational purposes. Those recreational sites would perhaps be on the side we claim will be ours. Now, would we be realizing some return from some of those recreational facilities?

The Chairman:

I believe the question has arisen already to the point where the State of Utah is not in accord that we have one-half the rights to the river as it is at the present time. It goes to the boundary where the river starts and they claim that part of it but it is under negotiation now, but what happens when the reservoir backs up and we lose our rights, I believe that can be explained by our attorney here.

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Norman Littell:

In Section 2, at the bottom of page 4 of the Act, it describes the transfer of the Glen Canyon Dam property to the Government. The first proviso says: "That the rights herein transferred shall not extend to the utilization of the lands hereinafter described under the heading "Parcel B" for public recreational facilities without the approval of the Navajo Tribal Council." So, nothing can be done without your approval,

The Chairman:

One other point the Council should be conscious of is that this proposed Bill presents the Tribe's side, as we see it. When the Congress discussed and deliberates on it, undoubtedly there will be some changes in the Bill. They have the privilege to amend that in the way they think would be best so let us not decide that this is going to be just the way it will be when Congress gets through with it. There is no question but that there will be some amendments and there are parts they will tear apart and, for various reasons, they will substitute other language for it. I hope the Congress or Committee when they report to discuss this that they will invite members of our Committee to discuss if any changes are recommended by the Committee, that a representative from the Council might be present and invited to explain the reason why we took this stand on the Bill.

Norman Littell:

There is no doubt about that, Mr. Chairman. Either you or anybody who wishes to be there, will be heard. We will arrange that in Washington.

The Chairman:

I would like to remind the Council about this proposed resolution - that what has been read to us on the proposed resolution is something that is our hope will be to the best interest of the Tribe, always thinking that the thing that affects is something that will happen probably after some of us are gone. It is happening in the future. Nobody knows exactly what the conditions will be 22 years from now when the water will have backed up to its full capacity in the reservoir and, at that time, any changes that could be foreseen could be discussed by the Council and leaders of the Tribe will take it in hand but we cannot see in the distant future, but this is our thinking and our hope that this will serve the best interest of the Tribe in the future and let us not be afraid that this matter is going to happen next month or year or a short period. This is too far in advance but, to the best of our knowledge, this

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resolution is the best to fit the case as of now, of course, especially looking to something that might happen in the next twenty years which will have to be discussed so do not believe that everything is taken care of. There will probably be something happening which we cannot see which will come up a few years hence.

Norman Littell:

I think it ought to be said that one of the greatest events in the whole South was the building of the Tennessee River Dams, irrigation projects and flooded areas. There was the same kind of fight all over the South. Who is going to be hurt and flooded? There never has been such a boom in the South since the Civil War that took place after construction of those dams and people have recreational facilities and lakes as they have never had them, and power, and you will get that sooner or later too and you cannot find a dissenting voice, in my experience in the South where these things took place, vastly greater than is happening to you, but it was, but it was a blessing of the greatest important to the southern states where these great dams and projects were built.

The men who are here can tell you more about the future of this area when you get the Navajo Dam and Glen Canyon Dam. You fought for them both for years. You fought for the Navajo Dam and it is a part of that Glen Canyon Project. I can say in conclusion that you approved what this Bill says in two resolutions. This Bill is simply carrying out your past instructions in resolutions of January 29th, 1957 and March 20th, 1957.

Henry Taliman:

Mr. Chairman and Members of the Council: I believe this question has come up before the Council previously with various explanations and therefore, the first agreement made by the Council apparently was not very well thought of, after a looking over by the Congress in Washington, although, to begin with, as to my understanding, several suggestions have been made by the Reclamation portion of the Government; that we are as far as to exchange that land. This land is the one that we have had under this Glen Canyon Project. It came up to the point that the land was to be exchanged for McCracken Mesa with no explanation as to what the Government could do as far as improvements or what part the Government will play so, looking over this Bill the last couple of days, to begin with it seems all of us did not have any idea as to the meaning of this Bill. Now, after yesterday, going over it item by item, perhaps the majority of the Council will now realize the benefits for the Tribe. It has been brought out what the Government is going to

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do with authorization from the Secretary. Now, I am not going to say too much. Although I do not live there, I made several trips in that area and I do not believe we should take an attitude that a lot of Navajo people are going to suffer under certain circumstances as to their range and to their farming. The majority of Navajo people are living this side of the canyon so I would like to say that we have to take chances no matter what we think or what hardship we may have to undertake in the future but, nevertheless, the member of the Council from that area, we will suffer in years to come, which is to say a lot of the people have suffered under the reduction program, things like that. The Secretary of the Interior and Congress have the authority to reduce our livestock and we have no choice as to the Reservation, the range in the area in which we live on the Reservation. We have to realize on both sides we have to take as a matter of fact, it is always for the best interest of the majority of people so I would like to say I am going to make a Motion that we pass this Resolution with the amendment, with the other words that have been inserted and I believe there is one word scratched out by Mr. Davis. I believe we should approve this Resolution with the amendment by Mr. Begay and other members of the Council and also I would say with the full understanding of the Councilmen who live in that area, they will know again what has to be done in the next General Council.

Pipeline Begishe:

Mr. Chairman and Members of the Council: I just have about three brief questions I would like to ask. We have just been informed that if this project is undertaken, that the completion of it would take more than ten years. That being so, still it is a short time hence. We Council members have been elected for a period of four years and before we have ever settled down, our term is nearly over and I say most of this program is hurriedly done so I would like to ask questions with respect to these projects when completed. We will eventually have a shore line on the Reservation. Would we have a Superintendent or other official who would look and care for that shore line, etc.? Also, we have medicine men who are engaged in ceremonial activities and they usually acquire certain species from water and, should that ever take place, what would happen? Would these things be available to them? Also, when the water does come up, would it be possible for people to obtain pumps so that they may pump water out and use it for irrigation and other purposes? Then too, we have been informed that people who would be hurt by the backing up of this water would be compensated. We only hear it and we want to know whether that will be paid once or continue to receive payments for over a period of time. In getting pumps, who would pay for them? Would the Tribe or the Bureau?

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The Chair:

I am sure there is no objection to our Navajo medicine men to get materials close to the water or in the water for medicinal purposes. But, referring back to Page 4 of the Bill - "That the rights herein transferred shall not extend to the utilization of the lands hereinafter described under the heading "Parcel B" for public recreational facilities without the approval of the Navajo Tribal Council". This means that you, as Councilmen, will still have to approve if any other project is started by anyone. It cannot be started without your approval. We still have the last say in it, but as far as pumping from the Reservoir is a question that has been objected to by the Reclamation people, but I would like to have Mr. Littell answer that and, if it was permissible either for the Government or the Tribe, money might be appropriated to purchase pumps if that was permissible.

Norman Littell:

Mr. Chairman and Members of the Council: I doubt if everyone could help themselves to water. Water is put out under regulations for distribution. Men are waiting over here to tell us more about that. On the other hand, I have no doubt that apart from authorized distribution of water, it will be for the relief of the people who live near and who need it. It makes sense and it is almost inevitable.

As to how people would be paid, the law is that they would be paid just compensation for what they lost. I do not know, but that usually is a lump sum. When I was Assistant Attorney General, we took several hundreds of thousands of acres and paid several hundred of thousands of people over six hundred million dollars and that was usually done by the determination of what the damage is. That is the rule and that is the law in every country, substantially the same law. Furthermore, let us not forget the lives of many, many of these Navajos will be enormously improved by having a lake in their front yard. How much would you give to have a lake in your front yard now?

I want to compliment Pipeline Legishe for his extremely able questions and I also want to say the position of our Congressmen of the United States is far more difficult than yours, because a Congressman's term is two years and he passes on the laws for the people of the United States and affects the lives of millions of people in foreign countries as well and he has only two years to go and you have four years, which is not quite so bad.

Edward Manson:

Mr. Chairman and Fellow Council Members: I have one



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question here about this land exchange. We have been told we have obtained the area in the McCracken Mesa vicinity. Has that land actually been given to the Navajo Tribe as yet? We hear the Mormon ranchers in that vicinity are still bothering people and, for that reason, I want to know if that has been approved as yet.

Norman Littell:

No. That is part of this deal. You do not get the land until you give your land and until Congress passes the Act, those fellows will still be harassed and they will be harassed the rest of their lives until we get this thing done.

Edward Manson:

Mr. Chairman and Members of the Council: Also, I seem not to be able to get over the fact that the Navajo Tribe seems to be a very easy target and they can be easily handled by anyone. That is one fact that I cannot seem to understand. One factor that I know very much about is this map that was shown to us yesterday whereby that we have agreed to a certain portion of land that would be given up and yet, we were shown an extended line that was picked by the Secretary of the Interior. It seems to me they can easily do these things no matter what we do. That is the part that I am concerned about. Then, when we go back to our people to tell them about the things that our attorney is telling us, they do not seem to care to listen or do not believe them at all. Like, for instance, most of these proposed projects and programs, to be realized in fifteen or twenty-five years, they naturally would not be in a position to comprehend the importance of all those things. Right now we know perhaps of eight thousand white people who are now located in the Glen Canyon site who are engaged in activities there. We see them driving day and night in their cars. Also, from the beginning it is felt since these projects would take years and a lot of workers, it was felt the Navajo people would be hired on these projects. However, that has not been done yet. Instead only the contractors from the East have taken over the projects and are using their own people. Even the local white people have had great difficulty in finding employment at this construction.

Norman Littell:

I think a point which has not been made and ought to be made is that the Tribe does not own absolutely the portion of the Reservation where the townsite is. No point has been made of this except that the Solicitor pointed out to me what a good bargain you are getting because the dam sites were reserved and in the admission of Arizona there is a reservation for dam sites. He says: "We can take this out without paying

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any compensation." and all I can say is: "Don't raise that delicate subject." It will be brought up in Congress I am sure. I think, Ed, that the other Councilmen should carry things like that back to the people. It is not anything your officers or you do. This is basic law and you cannot get away from it. We are sorry about it but there it is. It is the law.

The Chairman:

We will recess until 1:30.

(Whereupon, at 12:00 noon, the Council recessed until 1:30 p.m. of the same day.)

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The Chairman:

Please call the roll.

Carl Beyal:

Called the roll. 66 Council members present.

The Chairman:

We will proceed with our meeting . David Clah had the floor when we recessed.

David Clah:

Mr. Chairman and Members of the Council: I would like to make a brief statement here about what we have been discussing. My statement concerns especially about the remarks that were presented by our legal attorney. The remarks were such that it is bothering me to a considerable extent, that is, in explaining the proposed land exchange, Mr. Littell had explained that the land that we are giving up in the Glen Canyon Dam area contains no known mineral resources but yet, on the other hand, the land that we are trying to get in the McCracken area does contain proven resources and is worth a great many more millions of dollars than we are giving up. I believe that is incorrect for when you say that some portion of our Reservation is not valuable is entirely out of order . I think he should refrain from making statements like that. After all, the Navajo people look upon their reservation as very valuable, even so far as to say a piece of stone is of great value to them so I feel I should emphasize this very much. Then too, I feel in reality this country of ours is actually Indian country. The so-called forty-eight States of the United States is, in reality, country belonging to the Indians. I look upon it that way simply because that is my understanding of it. The way I feel and the way I know it, not having been educated, that is the way I feel on those things. Perhaps if you have gone to school you may have a different picture of all this but I think no matter how small the piece of land, if it is reservation land or otherwise, we still value it very much. Then, also, we value vegetation that we use, even just one blade of grass is valuable to us.

I know why some of these people are deeply concerned, that is, the people who will be affected by the building of this reservoir. I know in there is vegetation and brush that the people depend on in the severe Winter months. They have to depend upon it for survival of their stock so I do not blame the people of that area being concerned so much about it.

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Then in saying people will be compensated for damages done to their improvements, I would like to ask how the other people will be paid as far as those people who were using the land. They have the right to the land use. How would that be compensated? I feel too, that the land that we are giving up is far more than is being told here. It is true that it is not just for the townsite but it is far bigger. In return for this we are getting land over in the McCracken Mesa area. I am also wondering about the submerged portion of the land we are giving up. I wonder too, if, for an equal size, we will be getting an addition.

The Motion has been made to adopt this Resolution before us and since we are now ready to act on it, I would like to stress that one fact which is bothering me. That is, I would like to request our legal attorney to refrain from saying a certain portion of our Reservation is not as valuable as other parts of the land. I still maintain the forty-eight States' land is, in reality, Indian land. It is just these foreigners who have come on and established themselves and now say it is theirs.

I would like to second the Motion that has been made, which is to approve this resolution.

Norman Littell:

Mr. Chairman and Members of the Council: You know, whether you like it or not, sometimes you have to face what other people think and you are soon going to face it when you are going to get down to Congress because even though every stone and every grain of sand on the Reservation is sacred and valuable to you, as well it might be as it is your homeland, the plain fact remains that the scientific world realizes there is oil in some of it and none in other parts and it is pure foolishness not to recognize the simple fact you have to admit and face when you come to Congress. That is all my remarks extended to. Everybody recognizes there is oil in the Aneth extension. Every inch of it is leased. So far, no oil company has taken any interest in the other. I hope you get rich again with oil in Canoncito area but, for the moment, you will have to face facts as they are.

Manuel Denetsone:

Mr. Chairman and Members of the Council: I have one short question I would like to have answered. That is, what is this proposal that when the building of the dam is completed some power will be available? Now people that utilize such power will naturally pay for this and I wonder whether the Navajo Tribe would realize some income through that source. That is

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the question I have. The reason I ask is that we are told that one-half of the river itself does belong to the Tribe and they have a right to it. Of course, there are other people who maintain otherwise. However, basing it on that fact, I wonder if the Tribe would be in a position to realize something through this availability of power. I also wished to second the Motion but that has been done but now we are ready to act on it because we have covered this very thoroughly and I believe there is nothing more to be said on it for the time being.

The Chairman:

Mr. Littell, do you have an answer to that question?

Norman Littell:

Mr. Chairman and Members of the Council: You will get all kinds of benefits from power. For example, the Navajo Dam, for which Congress advances the money, will be built and ultimately be repaid from the profits on power earned by the flow of water through that dam. Otherwise I think there is no direct revenue to the Tribe. If I am wrong, some of these experts can correct me in the next item that comes before you - I hope not this one.

The Chairman:

I am aware of it in connection with the question he has asked that the Navajo Dam, the money used to build the dam, will not be reimbursable and the power from the Glen Canyon Dam will ultimately pay for the Navajo Dam. That is the way I understand it too.

Marcus Kanuho:

Mr. Chairman and Fellow Council Members: About a year ago several of us made a trip to the then proposed Glen Canyon Dam. When we made the trip there, Mr. Van Valkenburgh at that time had shown us that from the dam site to the North about six miles away it would be the State line. He indicated once the dam is built there would be a portion of land in that vicinity which would become very valuable. He then stressed the fact that whatever we do, we should try to hold claim to that particular piece in that vicinity. At the time he explained this he said he did not have the necessary documents or papers to show this but, at any rate, it was about six or seven miles from this dam site that the State line runs. He said that if we are to acquire lands like McCracken Mesa area, that we should by all means stress and strive to get this portion of the land he indicated. It seems to me that



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none of the Council delegates from that area have brought that point out. Maxwell Yazzie and Edward Manson are very much aware of this little conference we had out there but, since they are not bringing it out, I believe I should point this out. Maybe it is too late to do anything about this now because we are too far along, but maybe it is not too late to include it in this Bill.

The Chairman:

All those in favor of approving this Resolution covering this Bill, please stand.

68 Council members approve.

The Chairman:

All those opposed?

None opposed.

The Chairman:

There will be a meeting of the Advisory Committee tonight at seven o'clock.

Mr. Robert Baldwin will be at Window Rock in the Census Office from 2:00 p.m. to 5:00 p.m. on Thursday. All veterans and their dependents who have problems should contact Mr. Baldwin.

We will now take up the matter we started this morning. We will ask Mr. Davis to continue the discussion on that.

Laurence Davis: (reading)

2. The principal justification for construction of the Navajo Dam is to provide a water supply for the proposed Navajo Indian Irrigation Project and for industrial and municipal uses in the San Juan River basin in New Mexico.

3. In order for the members of the Navajo Tribe, now comprising 85,000 people, to attain a standard of living equal to that enjoyed by the majority of the other American citizens, not only prompt construction of the Navajo Indian Irrigation Project, but also the greatest possible industrial development in the San Juan River Basin on and adjacent to the Navajo Indian Reservation are essential.

4. In return for the generous support of the State of New Mexico for the proposed Navajo Indian Irrigation Project, and in recognition of the fact that the maximum economic

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development of all parts of New Mexico is a benefit to all citizens of New Mexico, including Navajo citizens of New Mexico, the Navajo Tribal Administration has supported authorization of the proposed San Juan-Chama Transmountain Diversion at the same time the Navajo Indian Irrigation Project is authorized.

5. While the original Feasibility Report on the proposed Navajo Indian Irrigation Project, dated January 1955, contemplated a 137,250-acre project, 26,620 acres of which were to be for non-Indian use, further study, embodied in a supplemental report dated March 1957, has shown that reducing the total acreage to a net area of 110,630 acres making use of the best lands available for irrigation purposes under Navajo Dam, both on and off the present Navajo Indian Reservation, and reserving the entire project for exclusive Navajo Indian use, would result in a much more feasible project with a greatly improved cost-benefit ratio, in increased availability of waters for industrial use in the San Juan River Basin in New Mexico, and consequently in greater over-all benefit to the Navajo people. Such plan would involve transfer of approximately 14,360 acres of Federal public domain, 960 acres of New Mexico State land, and 4,320 acres of privately-owned land of non-Indians to Indian reservation status, so that the Project could be exclusively for Navajo use, and the provisions of Public Law 485 and the Leavitt Act would be applicable thereto. Such plan has been approved by the Advisory Committee of the Navajo Tribal Council on January 9, 1957, by Resolution No. ACJ-1-57, which contemplated an exchange of non-irrigable lands of the present Navajo Indian Reservation for the irrigable off-reservation lands needed for the Project, or in the alternative, purchase of the off-reservation lands by the Navajo Tribe and their transfer into trust status by Federal legislation. Further study, however, has shown that the plan of exchange is impractical because of the population displacement it would create but that purchase is feasible; and accordingly, the Advisory Committee has authorized initiation of a Tribal land purchase program to acquire the off-reservation portions of the proposed Navajo Indian Irrigation Project, and has authorized the expenditure of Tribal funds for that purpose.

6. It appears feasible at this time to proceed with construction of only the initial phase of the proposed San Juan-Chama Project, with an average annual diversion requirement of 110,000 acre feet, building the tunnel to sufficient size, however, to accommodate the originally proposed annual diversion of 235,000 acre feet so that further stages of the project may be authorized without excessive cost when and if they become feasible.

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7. The Interstate Stream Commission of New Mexico approved the plan for reducing and consolidating the area of the proposed Navajo Indian Irrigation Project, and of purchase and transfer to trust status of the off-reservation lands required therefor, and of simultaneous authorization of the initial stage of the San Juan-Chama Project, in a meeting in Farmington on October 17, 1957. At said meeting, the Interstate Stream Commission approved proposed legislation for Congress to accomplish this purpose and further to provide for equal priority of water rights for the revised Navajo Indian Irrigation Project and the initial stage of the San Juan-Chama Project, and appointed the State Engineer and the Commission's legal adviser to work with representatives of the Navajo Tribe and the Department of the Interior to make further refinements in the proposed legislation.

8. The State Engineer of New Mexico and the legal adviser to the New Mexico Interstate Stream Commission met in Phoenix, Arizona, on November 5, 1957, with the Solicitor of the Department of the Interior, the Field Solicitor and the Irrigation Engineer from the Gallup Area Office of the Bureau of Indian Affairs, and the Assistant General Counsel of the Navajo Tribe, and agreed on a draft of legislation to authorize simultaneously the Navajo Indian Irrigation Project and the initial stage of the San Juan-Chama Project. Such draft, but containing revisions in sections 4 and 7 is attached to this resolution.

9. Subsequent to this meeting, the State Engineer of New Mexico and his advisers have met with the Chairman of the Navajo Tribal Council and his advisers and representatives of the Bureau of Indian Affairs to discuss revision of sections 4 and 7 of the proposed legislation so as to provide for the sharing of shortages by all users of water in New Mexico from the San Juan River whose uses are hereafter initiated, and the Engineer and the Chairman and representatives of the Bureau of Indian Affairs have agreed that all such uses should share proportionately in all water shortages on the basis of their respective authorized diversion requirements, rather than on the basis of priority of appropriation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The attached proposed bill entitled "To authorize the Secretary of the Interior to construct, operate, and maintain the Navajo Indian Irrigation Project and the initial stage of the San Juan-Chama Project as participating projects of the Colorado River Storage Project, and for other purposes," consisting of the draft made in Phoenix on November 5, 1957, but containing revisions as proposed by the State Engineer of

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New Mexico in sections 4 and 7 thereof, is hereby approved in principle, and the Congress of the United States is respectfully urged to enact legislation substantially similar thereto into law at the earliest practicable date, and to provide funds for early commencement of construction of the Navajo Indian Irrigation Project and initial stage of the San Juan-Chama Project.

2. The Chairman of the Tribal Council is hereby authorized to consider, and if in his discretion advisable in the interest of the Navajo Tribe to approve, further changes and modifications in such proposed legislation, provided the following principles are always adhered to:

(1) The Navajo Indian Irrigation Project not be reduced below a net area of 110,630 acres.

(2) The authorized average annual diversion requirement of the Navajo Indian Irrigation Project not be reduced below 508,000 acre feet.

(3) The Project be exclusively for Indian use, and the legislation provide for acquisition and transfer into trust status of the presently off-reservation areas susceptible to irrigation as part of the Project

(4) No use in New Mexico of the San Juan River and its tributaries above Navajo Dam not heretofore authorized be given priority ahead of the Navajo Indian Irrigation Project.

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The Chairman:

In the middle of Section 7 it says: "to provide for equal priority of water rights for the revised Navajo Indian Irrigation Project". That only means that each one will have a share of available water. That is the main purpose of the discussion today so that no one will be denied, supposing that the water would go down and they have no water, as far as the priority is concerned, everyone will have an equal priority.

I also want to emphasize under 2. of the Resolve clauses that the Chairman could approve some modification and changes of different things relative to this project. However, there are four items on which the Chairman is designated to stand pat that no further changes be made. First: Originally 137,250

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acres were supposed to be land on which the water will be diverted. That has been cut down to 110,630. They do not want that cut down any smaller. Second: that the amount of water available should not be cut down from 506,000 acre feet. Third: That the Project be exclusively for Navajo Indian use. Heretofore 26,620 acres was supposed to be used by non-Indians in that area but that has been changed to acquire that land by transfer but now, as it is, the Navajos will purchase that land because of the difficulty of people living on there moving and making other acquisition of land. Last of all, we have this one here that no one should get ahead of us in using any part of the San Juan or its tributaries. We should have that water available for our irrigation purposes, so the Resolution states that no changes should be made and we stand on that without any change.

Laurence Davis:

Now I will read the Bill and will explain briefly as I go along with the Bill. When I am finished, I will make a short statement and Mr. Keesee will make a statement on the Navajo Dam. This Council has not been briefed on the changes made in the plan over the last two years using this map and the small maps distributed to you. I can make a short statement on the legal implications of one of the sections of this Bill and then Steve Reynolds, State Engineer of New Mexico can explain that section to you. Following that, you will hear from our Consulting Engineer, head of the Engineering Department of the University of Wyoming, Mr. Person, who is here and he can comment on Steve Reynolds's statement. I believe it would be best to hold your questions until after the presentation has been made by the various experts, because we do not have much time. These experts are going to answer your questions in advance if you pay close attention to them. After they have finished, if they have not answered them, you are free to ask them and they will be answered.

Larry Davis (reading)

To authorize the Secretary of the Interior to construct, operate, and maintain the Navajo Indian Irrigation Project and the initial stage of the San Juan-Chama Project as participating projects of the Colorado River Storage Project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby approves as participating projects of the Colorado River Storage Project the Navajo Indian Irrigation Project as described in the Bureau of Indian Affairs report entitled "Navajo Project, New Mexico Feasibility Report, January



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1955," and as modified by the Bureau of Indian Affairs Supplemental Report entitled "Navajo Project, New Mexico Supplemental Report, March 1957 to Feasibility Report, January 1955," and the San Juan-Chama Project as described in the Bureau of Reclamation report entitled "San Juan-Chama Project, Colorado-New Mexico, November, 1955," such project plans and reports having been prepared and submitted as required under the provisions of the Act of April 11, 1956, 70 Stat. 105.

Laurence Davis (speaking)

The meaning of the section just read is that Congress give approval to the section just read. The project is not authorized by the section nor any money put up by this section. The real meat of the Bill is contained in the following section.

Laurence Davis (reading)

Sec. 2. Pursuant to the provisions of the Act of April 11, 1956, 70 Stat. 105, the Secretary of the Interior is authorized to construct the Navajo Indian Irrigation Project to include a net area of 110,630 acres of land with an average annual diversion requirement of 508,000 acre feet of water, the repayment of the costs of construction thereof to be in accordance with the provisions of said Act of April 11, 1956, 70 Stat. 105, including, but not limited to Section 4 (4) thereof.

Laurence Davis (speaking)

The meaning of this is that the Congress will authorize in accordance with the revised feasibility report which provides this to be an all-Indian project - no white use of it. Also the repayment of the cost of this project would be governed by the Act of April 11, 1956 which provides that the cost of the project above the capacity of the land to repay, will be an outright grant from the Federal Government and the cost of the project within the capacity of the land to repay will be deferred as long as the land remains in Indian ownership.

Laurence Davis (reading)

Sec. 3 (a) In order to provide for the most economical development of the Navajo Indian Irrigation Project, the Secretary of the Interior is hereby authorized and directed to declare by publication in the Federal Register that the United States of America holds in trust for the Navajo Tribe of Indians any legal subdivisions or unsurveyed tracts of Federally-owned land outside the present boundary of the Navajo Indian Reservation in New Mexico in Ts. 28 and 29 N., Rs. 10 and 11 W., and TS. 27 and 28 N., Rs. 12 and 13 W., N.M.P.M., susceptible to

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irrigation as part of the Navajo Indian Irrigation Project or necessary for location of any of the works or canals of such project; Provided, however, That no such legal subdivision or unsurveyed tract shall be so declared to be held in trust by the United States for the Navajo Tribe until the Navajo Tribe shall have paid the United States the full appraised value thereof; and Provided further, That in making appraisals of such lands the Secretary of the Interior shall consider their values as of the date of approval of this Act, excluding therefrom the value of all minerals subject to leasing under the Act of February 25, 1920, as amended (30 U.S.C. 181-286), and such leasable minerals shall not be held in trust for the Navajo Tribe and shall continue to be subject to leasing under the Act of February 25, 1920, as amended, after the lands containing them have been declared to be held in trust by the United States for the Navajo Tribe.

Larry Davis (speaking)

As Mr. Keesee will explain to you the present plan is to use the best lands whether on or off the Reservation for inclusion in this project. In order to make an all Indian Project it is going to be necessary to take those lands off the Reservation as part of the project and put them in trust status for the Navajo Tribe. Then those lands will be in the present status of the Reservation lands except for minerals and oil and gas which is not included. In order to do that, it will be necessary to acquire some 14,360 acres of Federal Public Domain lands and add them to the Indian Reservation. There is no provision in the present law to purchase the land from the Federal Government. This section will provide a means whereby the Navajo Tribe can purchase those lands from the Federal Government and it will not be necessary to trade lands with the Government, but it will be an out and out cash purchase provided by this sub-section.

Larry Davis: (reading)

(b) The Navajo Tribe is hereby authorized to convey to the United States, and the Secretary of the Interior is hereby directed to accept on behalf of the United States, title to any land or interest in land within the above-described townships acquired in fee simple by the Navajo Tribe, and after such conveyance said land or interest in land shall be held in trust by the United States for the Navajo Tribe as a part of the Navajo Indian Irrigation Project.

Larry Davis (speaking)

This section deals with State and privately owned land within the area of the project as it has been revised. As you know, Federal Public Domain lands cannot be purchased, but State and privately owned lands can be purchased and the Advisory Committee has already authorized the filing of an application to purchase two sections of State land in that area. After the

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Navajo Tribe buys the land, it holds it in fee simple like any other landowners but, in order to have this an all-Indian project, and have the repayment under the Upper Colorado Act and Leavitt Act apply to it, it is necessary for all fee simple lands owned by the Navajo Tribe to be transferred in trust status and this sub-section just read provides the Navajo Tribe can be conveying these lands to the United States to have them transferred into trust status.

Larry Davis (reading)

(c) The Secretary of the Interior is hereby authorized and directed to acquire by purchase, exchange, or condemnation any other land or interest in land within the townships above described susceptible to irrigation as part of the Navajo Indian Irrigation Project or necessary for location of any of the works or canals of such project. After such acquisition said lands or interests in lands shall be held by the United States in trust for the Navajo Tribe of Indians and the price of such lands or interests in lands or of the land given in exchange therefor by the United States shall be charged to funds of the Navajo Tribe of Indians on deposit in the Treasury of the United States.

Larry Davis (speaking)

The purpose of this sub-section is just to enable the Secretary of the Interior to acquire any other lands off the Reservation necessary for inclusion in the project which the owners will not sell to the Navajo Tribe. This authorizes him in such case to go ahead and take it. Even in that case, the price of the land is to be paid for by the Tribe. The reason is that is an expression of good faith. You understand the cost of this project is to be a grant from the United States - the entire cost. If we would ask Congress to assume the cost of land acquisitions in addition, we might not get what we want and might not even get the project but, if the Navajos say: "We are willing to buy the land and do our share. You are going to build the project as a grant to us and we are willing to buy the land in order to make it feasible to build the project." That is what the purpose of this section is.

Now approximately 29,540 acres of off-reservation lands are involved. That is the amount we will have to put on to the Reservation and for that small amount of land, the cost will not be excessive. You know last year you bought 99,000 acres from Best and Brown and the cost was \$700,000, so this is less than one-third of the land you bought from Brown and Best. The cost will not be excessive either.

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Now these sub-sections that have just been read have been approved by the State of New Mexico. Ever since 1912 the State of New Mexico has firmly objected to any extension of the Navajo Reservation. Now they have agreed to the extension of the Navajo Indian Reservation to the extent of 29,500 acres necessary to the Navajo Indian Irrigation Project. They have agreed to this and it is a great concession on their part.

The Chairman:

We will have a ten minute recess.

(Whereupon, at 3:20 P.M. a ten minute recess was taken.)

The Chairman:

We will continue with our discussion.

Larry Davis (reading)

Sec. 4. In developing the Navajo Indian Irrigation Project, the Secretary of the Interior is hereby authorized to provide capacity for municipal and industrial water supplies or miscellaneous purposes over and above the diversion requirements for irrigation purposes stated in Section 2 of this Act. Such additional capacity shall not be constructed unless, prior to such construction, contracts shall have been executed which the Secretary finds will provide satisfactory assurance of repayment of all costs assignable to such additional capacity.

Larry Davis (speaking)

Now this section that has just been read is one of the most important parts of the entire Bill. We are supposed to cut down the Navajo Project from diversion requirements of over 600,000 acre feet to 508,000 acre feet. That is not going to hurt the Navajo people. The way we cut down is eliminating the non-Indian portion. We are also cutting down from 285,000 to 140,000 acre feet on the San Juan-Chama. That saves us about 260,000 acre feet of water annually. What are we going to do with that water? The paragraph that has just been read tells you what we are going to do with it. We are going to save it for municipal and industrial use. What have we in mind? We have the Utah Construction in mind. The lease has been signed and gone through and is in full force. For their steam generating plant they will need water and they hope with cheap electricity to attract other industries and they will need water so we are saving water for them here and we are doing that with the thought in view that this industrial development will be just as beneficial to the Navajo people as the irrigation project, maybe more so, and we have to have water for it and

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what we are saying here is that we are going to make it possible for the Secretary of the Interior to sell water to these people, the Utah Construction and other industries, and deliver it if necessary through canals of the Navajo Project. Another thing that is going to do is to cut down the cost of the Navajo Project. As you know, the irrigation project is going to be a grant. If the Secretary has to increase the size of the canals so he can bring water to the Utah Construction, the Utah Construction is going to pay the cost of increasing the canals, which will add to their cost, so that is why this is a very important section we have read. It is going to provide jobs for the Navajo people.

Larry Davis (reading)

Sec. 5. The Navajo Indian Irrigation Project shall be constructed, operated, and maintained subject to the provisions of Section 4 of the Act of April 11, 1956 (43 U.S.C. #620c) to the same extent as if such project were authorized by section 1 of said act (43 U.S.C.#620). Payment of operation and maintenance charges of the irrigation features of the Navajo Indian Irrigation Project shall be in accordance with the provisions of the Act of August 7, 1946, 60 Stat. 867; Provided, That the Secretary of the Interior in his discretion may transfer to the Navajo Tribe of Indians the care, operation, and maintenance of all or any part of the Navajo Indian Irrigation Project works, subject to such rules and regulations as he may prescribe, and in such event, the Secretary may transfer to the Navajo Tribe title to movable property necessary to the operation and maintenance of project works.

Larry Davis (speaking)

The first sentence of this section which has been read refers principally to the fact that the cost of the project over and above the capacity of the land will be a grant under the Leavitt Act but, in the cost of the land, that refers to the construction cost of the project. On the operation and maintenance charges, the cost of operating and maintaining the project, they are not grants on any irrigation project. The Indians have to pay the costs of operating the project and this provides that the Secretary of the Interior can operate the project and assess the Indians living under the project or, if it appears best, he can turn the whole thing over to the Navajo Tribe as is now being done in regard to the miscellaneous irrigation projects. He can turn the whole thing over to the Tribe and say: "You fellows run it." If he does that he can transfer the movable property necessary for maintenance over to the Tribe. He can give the Tribe the bulldozers, shovels and other tools necessary to do the job.



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Larry Davis (reading)

Sec. 6. Pursuant to the provisions of the Act of April 11, 1956, 70 Stat. 105, the Secretary of the Interior is authorized to construct, operate and maintain an initial stage of the San Juan-Chama Project, in accordance with the Bureau of Reclamation report entitled, "Supplemental Report, San Juan-Chama Project, Colorado-New Mexico, May 1957," said initial stage to have an average annual diversion of 110,000 acre feet of water.

Larry Davis (speaking)

Now we are through with the Navajo Project and this has to do with the San Juan-Chama and that is the project to take water over the mountain to Albuquerque and it has been the policy of the Council and the Advisory Committee to cooperate with the State of New Mexico in getting that project authorized and, in return, the State of New Mexico has been cooperating with the Navajos to get the Navajo Project. This relates to the 2nd project in the San-Juan-Chama project.

Larry Davis (reading)

Sec. 7. Notwithstanding any provision of existing law, the annual water supply available from the San Juan River and its tributaries above Navajo Dam for the projects authorized herein and all other uses hereafter lawfully initiated in New Mexico shall be shared in proportion to the respective diversion requirements for said projects and uses in any year in which the Secretary of the Interior finds that the annual water supply in addition to water in storage will be inadequate for said projects and uses.

Larry Davis (speaking)

Now, the explanation of this section is what the delegates from New Mexico are here for today. I will give you the legal background. In the Western States, when there is a shortage of water, it is customary and it is the law in most of the Western States that the water user who started using that water first gets as much water as he needs and then the later users are the ones who take the shortages. In other words, if there are 100 users of a stream and in normal years there is enough for all, but, in lean years, the later users will go out completely but the one who got there first will get the use of that supply. That is called the priority of diminution and that is the priority of water supply.

Now, there is another phase of that law of prior appropriation regarding Indian water rights and that is called

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the Winters decision and that says Indian water rights have daily priority, not the date the water was first used but the date the Reservation was set up. Among white people using water from a stream, every one gets a priority date of the date he began to use the water but, if some water is used on the Reservation, the priority date is not the date the water is used, but the date the Reservation is set up, which may be much earlier than the water was used on the Reservation, and that is called the Winters Doctrine.

How this section which has just been read, Section 7, it approaches the doctrine of prior appropriation and the Winters doctrine in regard to the uses of the San Juan and its tributaries above Navajo Dam. It would not make any difference what time the use started. You would all have an equal priority and if there was a shortage, instead of the latecomers taking the shortage, everybody would have to take his portion of the amount. I want you to understand fully what this section would do. If this Section were not in there and the Bill were to become law, your Navajo Irrigation Project would have first priority to these waters. You would not have shortages. Everybody else would. Now, you may wonder why I would appear before you and say: "Would you like to go along with this section", if in case your irrigation project may in some years have 35% shortage. In some years your Navajo Indians on that project may only get 65% of the water that they would otherwise be entitled to. Why should I think that should be done? The reason I think that should be done - there are several reasons: The first one is if the irrigation had first priority and got a full supply of water, even in years of shortage, the people who come in later, meaning the industrial users, would not get any water at all some years. What would happen? You would not get any industrial users. If they could not depend on the water supply, they would not come in. You would not get industrial development. Industrial development I think, and I believe you agree with me, is just as important to the Navajo people as irrigation, maybe more so, so if the Navajo Tribe were to insist on first priority on irrigation projects, it would be killing off all the industrial jobs that the Navajos would otherwise get. It would be killing off the Utah Construction Project that we have all worked so hard for. The next reason I am supporting Section 7 is if we did not have this Section in the Bill, we would never get it through Congress. If this were not in the Bill, the only project that would be feasible would be irrigation projects. The Trans-Mountain and industrial development would not be feasible. They are reimbursable projects. They help to pay for Government work in New Mexico. If this were left just as this, it would just be a grant to the Navajo Tribe and the people from New Mexico

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would not support it and the Congressional delegates would not support it and we would not get anything. The State Engineer from New Mexico is here to explain this Section and your own consulting engineer, Dean Person, is here to explain it further.

Larry Davis (reading)

Sec. 8. Section 12 of the Act of April 11, 1956, 70 Stat. 105, shall not apply to the works authorized by this Act. There are hereby authorized to be appropriated out of any moneys in the treasury not otherwise appropriated, such funds as may be required to carry out the purposes of this Act, but not to exceed \$208,000,000.

Larry Davis (speaking)

The purpose of Section 8 is to authorize Congress to put up the money to get these projects actually built.

Now Mr. Keesee of the Bureau of Indian Affairs is here and he will explain to you what the present plan for the Navajo Project is and the difference from the plan explained to you about three years ago.

Jerry Keesee:

Mr. Chairman and Members of the Navajo Tribal Council: Yesterday there was placed on each desk a map. Now, that map shows the project as conceived in the 1955 feasibility report and the purpose of it is to show you the difference between the project then and the project as it is now envisioned, which is shown on the display map to my right. The small map was based on the criteria provided by the Secretary of the Interior to prepare a feasibility report on the Navajo Project and it included land for non-Indian users located East of the Eastern boundary line of the Reservation and south of the towns of Bloomfield and Farmington. Those lands were to be used by non-Indian farmers.

The Navajo Project for Indian use, which is known as the Shiprock Division, was located entirely on the Navajo Reservation and just for the use of Navajo people. The acreage contained, as previously set out by Mr. Davis in his Resolution, was 26,000 acres for non-Indian use and a gross area of 115,000 acres for Indian use. The New Mexico State Engineer, Commissioner of the Upper Colorado Stream Commission from New Mexico, the legal counsel of the Interstate Stream Commission met with representatives of the Navajo Tribal Council, their legal representatives and representatives of the Bureau of

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Indian Affairs at Window Rock in October of 1955. It was at this meeting that the representatives of the State of New Mexico made this verbal proposal on which the resulting project area was changed. This verbal proposal included two sections. First: That the Navajo Project be developed as an Indian Project. That was the first part. Second: That the State and Federal land owned in the South San Juan Division which could be served by a gravity canal, could be served with an equal amount of Reservation land.

It was evident from the first part of that proposal, that a much cheaper project could be developed and, as a result, studies were made along those lines.

The second part of the proposal, however, was not as practical because of the population displacement it would create by exchanging of land on the Reservation. As a result, your Advisory Committee initiated a land purchase plan to acquire the lands within the South San Juan Division. The land will be served through a main canal from the reservoir primarily at the same location shown on the smaller map. There were some changes made in the Works, principally in the Kutz Canyon area, which reduced our costs. As a result of and in conformity with the first proposal to serve the lands by gravity, we reduced the area in the South San Juan Division lying East of the Reservation line or extending there to a point about five miles East of Bloomfield and South of the San Juan River, as shown on this smaller map.

The canal enters the Reservation at a higher elevation than it did on the map which you have on your desk. We maintain that higher elevation to a point midway on a line between Farmington and Burnhams where we develop power which will be used to pump to lands that we have added to the project on the Navajo Reservation. From the point extending westward to serve the rest of the lands beginning at the power top, the gravity canal is in the same location as is shown on your map.

We have selected the best lands in the South San Juan and Shiprock Division. As a result, the lands extending to the North and West of Table Mesa have been eliminated. To compensate for the lands there we have added lands to the West of Bennett Peak, South of Newcomb Trading Post and an area on the East side of the Reservation above the gravity canal.

The lands shown in yellow color will be served by gravity; the lands shown in yellow with green crosshatch will be served by pump. The total Indian Navajo Irrigation Project to the Navajo people totals a gross area of 115,000 acres as was in the original proposal.

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The State has recognized this and now an action of the Interstate Stream Commission would allow the Navajo Indians 508,000 acre feet of water which is sufficient for the irrigation of the area shown on that map.

The result of these changes has reduced the cost of the project from \$211,000,000 to \$127,000,000 and has increased the feasibility from about 1.2 to 1.4, which means that this project in the eyes of Congress is much better than it was before.

That is all the remarks I am going to make at this time and we will be available for questioning tomorrow.

The Chairman:

Mr. Davis, do you have any legal advice on this project?

Larry Davis:

I believe, Mr. Chairman, it would be best to have Mr. Steve Reynolds discuss Section 7 now.

Members of the Council: This is Mr. Steve Reynolds, State Engineer of New Mexico who will speak to you on Section 7 of the proposed legislation which has been read to you.  
(Applause)

Steve Reynolds:

Mr. Chairman and Members of the Navajo Tribal Council: The State of New Mexico knows the importance of the Navajo Dam, Navajo Irrigation Project, to the Navajo people and to the other citizens of the State of New Mexico in the San Juan Basin and the State has worked long and hard with representatives of the Department of the Interior and with representatives of the Tribal Council toward the construction of these projects. We have always found your representatives wise and our work and our conferences with them have always been pleasant and very fruitful.

In March of 1953 Governor Mechem wrote a letter which clearly established it was the State policy that the Navajo Indian Project and the San Juan-Chama Project should be planned and authorized by the Congress simultaneously. Such a policy was necessary and is necessary because these projects complete for the same water supply - the water supply of the San Juan River and its tributaries above Navajo Dam, which is the stream upon which these projects depend, which amounts to an average of 900,000 acre feet per year. That is the water so far unappropriated for other uses. This supply is enough to furnish 508,000 acre feet per year for the Navajo Project, 23,000 acre



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feet for the Hammond Project and 110,000 acre feet required for the first stage of the San Juan-Chama Project and also to furnish, with reasonable shortages, about 224,000 acre feet of water for municipal and industrial purposes over and above those requirements I have mentioned.

As Mr. Davis has already made clear to you, the effect of the draft authorizing legislation, which was tentatively approved at the Phoenix meeting, would provide that all present users of the river would be served first; that next and simultaneously the Indian Project requirement of 508,000 acre feet, the San Juan-Chama requirement of 110,000 acre feet and the Hammond Project of 23,000 acre feet would be served and after that project had received the full supply users depending on the additional 220,000 acre feet I have mentioned would be served. This 224,000 acre feet, in accordance with the provisions of this legislation, might be used in the San Juan Basin or might be used for the second state of the San Juan-Chama Diversion Project.

Mr. Keesee has suggested that I tell you among those present users I mentioned that would be served first, are the Fruitland and Hogback Projects.

As a result of a suggestion that was made in a conference here at Window Rock, early in October, my office understood to study the effects that would be felt by these contemplated projects if, instead of serving them in accordance with priority, all subsequent users of the 900,000 acre feet per year of water shared these shortages equally. These studies indicated that there would be no serious effect on any of these projects and that a system of sharing shortages might be of great benefit to water users both in the San Juan Basin and Rio Grande Basin and very much in the interest of the State as a whole. Dean Person will later explain this in some detail, giving you a number of figures, but I will attempt a very brief explanation at this time.

First: If the Indian Project, the Hammond Project and the San Juan-Chama were served on first priority of this remaining water, there would be no shortages on those projects and, in fact, an additional 100,000 acre feet of requirement for industrial uses could be met with very little or not any shortage but, if this is done and the last 124,000 or the 224,000 that I have mentioned had to take all the shortages, the shortage would be very large - as much as 22% perhaps per year and, in some years, there would be no water at all for the users depending on the last 124,000 acre feet. I think you can see that the development of water for subsequent uses would be very unattractive and would never be developed and would forever flow down the river to California.

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If, on the other hand, the all subsequent users of 900,000 acre feet share the shortages equally, the shortages will be reasonable and industries such as the Utah Construction Company will be encouraged to use and develop that water in New Mexico.

In the meeting at Phoenix on November 5th where this proposal authorizing legislation was discussed with representatives of the Department of the Interior, those representatives pointed out the advantages of sharing shortages among all subsequent users and pointed out that such a system of sharing shortages might be necessary to justify the construction of Navajo Dam to the full 1,700,000 instead of some lesser figure and it might be necessary to justify construction of the tunnel on the San Juan-Chama Project to full size. Dean Person will explain these matters in more detail I understand and I will remain here overnight and tomorrow and will certainly do my best to answer any questions you may care to ask after you have heard from Dean Person. Thank you very much. (Applause)

The Chairman:

I want to thank Mr. Reynolds for his information and also we have had the same explanation in Santa Fe a week ago Monday and the main object of all this explanation of the various details is when you come down to the point, it is very simple to authorize that irrigation part of it. The dam has been authorized. You have heard the explanation of the land outside of the Reservation; how the Government should get that so that we can have ditches and canals through it and the South San Juan has been used by non-Indians and the Navajos should have it by purchase rather than exchange and the simple matter is to have that authorized by Congress for us. You might question later on if there is some question arising as to why this was not discussed in the first place when it was brought to our attention. It is long and tiresome but we want to give you all the detail part of it so that you will know and why we are trying to get Congress to authorize it and tomorrow, at nine o'clock we will try to complete this.

We will now recess until tomorrow morning at nine o'clock except there is an Advisory Committee meeting tonight at seven o'clock in the library.

(Whereupon, at 5:00 p.m. the Council recessed until 9:00 a.m. of the following day.)

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Thursday morning, December 12, 1957

The Chairman:

Will you please call the roll?

Carl Beyal:

Calls the roll. 70 Council members present.

The Chairman:

We have a quorum, so we will proceed with our Council activities. I want to briefly state that all of you who might be on Committee work and who are not present when the roll is called, I wish you would make that known to the Secretary or the office so that you will not be overlooked in getting a day or so deducted from your time. That has happened already so if you will let us know about it, we will see that you are taken care of.

At this time I would like to ask the Reverend Mr. Clark to give us the invocation this morning

Reverend Clark:

Delivered the invocation.

The Chairman:

We have quite a number of very important subjects that we would like to have the Council consider, which Council members from various parts of the country have brought to me for possible discussion during this Council session. They are all worthy and very important subjects and should be discussed and should be cared for by the Tribal Council in session, but we are always confronted with the subjects that we have for discussion all of this week, which are all of emergency character so when the time does come to discuss these very things and we must take them up, I feel that in the not too far distant future, possibly by the middle of next month, as our office forces have said, that we can take up what we have here and get these things on their way and take up others, but those things that have been brought to my attention either in writing or individually, have been registered and filed in my office and will be placed on the Agenda and I feel grateful for your bringing those to my attention and grateful for the work in the field, that you are really working for the Tribe and, of course, we feel that it falls to our lot as a candidate we have said we would try to help and this is the first time I have had several letters from the various parts of the country saying the work the Tribal Council, the Grazing Committee and the Chapter Officers are doing is that they are very diligent in

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working with the people and I want to express my appreciation to the Council again that you are working for your people. On account of this other request coming to us, or rather something that came to us of great significance, it was brought to our attention by the Ford Foundation that we delegate a number of Councilmen to visit the various countries as a group to go through those countries whose Governments are standing on their own feet and taking care of themselves better than in the past when no help was extended to them. It was felt that our Tribe was in that state where they are just beginning to feel the importance of self-reliance, and I believe when you see the other countries, how they are doing it, you might get some inspiration to do it for the Navajo people. This would be to go out to all the countries under the guidance of the Ford Foundation and it was suggested that we send some delegates, ten in number or above, to visit Puerto Rico, Pakistan and other countries, including the Phillipine Islands, and make a trip around the world. Some of us may still think the earth is flat, but it is round so I thought I could make a report to you on that today and tomorrow and that will determine when we will set the next Council meeting, as there are a lot of important things for your discussion that have been brought to me and we are only discussing emergency things at this time so we have until tomorrow to finish it and we will continue to discuss the proposed Resolution that was brought to you yesterday at noon and the explanation of it and we have a delegation from New Mexico and also we have our consultant Dean Person and I will call upon Mr. Person to give us an analysis of the water situation we are discussing and we hope we will terminate this discussion shortly so that we can go on to another subject.

Dean Person:

Mr. Chairman and Members of the Tribal Council: I have reviewed the water supply situation for the Navajo Project under the two proposals for operating the San Juan River which has been proposed in the October and December meeting at Window Rock and Santa Fe. In both of these proposals, the existing Navajo rights on the San Juan River will not be affected. Under both of these proposals, the Navajo Reservation with a capacity of 1,705,000 acre feet will be used. The first proposal was the diversion requirement of 508,000 acre feet for the Navajo Project at 110,000 acre feet for the San Juan-Chama Project would have first and equal priority of the San Juan water. With equal priorities, the two projects would share shortages in direct proportion to the diversion requirements. Under this proposal, it was planned that an additional 224,000 acre feet of water from the San Juan River would be used for municipal and industrial purposes and this block of water would have a priority second to the Navajo and San Juan-Chama Projects.

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Now, under these operating conditions, with the Navajo and San Juan having first right and the municipal and industrial water having second right, the only shortages the Navajo Project had in the 27 year period 1927-1954 would have been 9% in 1951 and 5% in 1954. These shortages are so small they could be considered negligible.

Now, the shortages that would have occurred on the 224,000 acre block of industrial water during this 1928-1954 period would have been 57% in 1947, 100% in 1951, 5% in 1952 and 100% in 1954. In other words, in 1951 and 1954 the industrial block of water would not have got any. During the other 23 years, there would have been no shortages on the industrial block of water. Now, shortages of 57% has occurred one year and 100% has occurred two years in this 27 year period on industrial water and definitely these would be intolerable shortages and preclude any possibility of selling this block of water.

The second proposal was the Navajo Project and the San Juan-Chama Project and the industrial block of water would all have equal priority. This would mean all of these projects would share in the water supply shortages in direct proportion to the water requirements. Under these operating conditions, with all projects having an equal right, the shortage that would have occurred during the 27 year period from 1928 to 1954 would have been 15% short in 1947; 35% in 1951; 1% in 1952 and 34% short in 1954. During the other 23 years of the twenty-seven year period, there would have been no shortages.

Now the irrigation project shortages of 35% and 34% has occurred twice in this 27 year period and would be considered relatively minor shortages. We have a lot of good irrigation projects in the West that have occasionally as much as 50% shortage.

Now, for the industrial water, which would have also a shortage of 34% and 35% during two years of this 27 year period, these shortages would be considered tolerable shortages. That is, you could live with them and I think under these shortages the 224,000 acre feet of industrial water could be developed and sold when the need for this water arises. We do believe a large industrial water demand will develop in the San Juan River Basin. These industrial developments in the area will bring both direct and indirect benefits to the Navajo people. Since the operating conditions under which all projects have equal rights results in making a considerably greater water supply for industrial users, we believe this proposed operating condition would be the most desirable from the standpoint of the Navajo people. Mr. Chairman and Members of the Council, that completes my report. (Applause)



Thursday morning, December 13, 1957

The Chairman:

I would like to report at this time something that is not too good a report from one of our schools where 60 children were examined for some sickness and they found out that many there had hepatitis. You remember that epidemic afflicted our people in the Tuba City area, which came as a blessing in disguise because that is how we got in touch with the Cornell-New York University people who are doing such excellent work at this time. Those of us who have children should be cautious because this could be contagious.

We will ask Mr. Larry Davis to continue the legal discussion of this proposal.

Larry Davis:

Members of the Council: It appears to me that the explanation here - I have covered the presentation the best we could, but while we are still here, if anything is not clear to you, we are all available, not only myself, but Dean Person and Mr. Keesee and the other members of the delegation from New Mexico and Mr. Crose are available for the questions. Do any of the rest of you gentlemen have a statement you wish to make before the questions start?

(Chorus: No.)

Larry Davis:

It is now up to you and I believe all of us, myself, Dean Person and the people from New Mexico are agreed the draft of the legislation before you is the best we could do at this time. Of course, there probably will be some minor changes before it passes Congress but we believe the substance of it is correct and is in your best interests.

Grey Valentine:

Mr. Chairman and Members of the Tribal Council: Delegates from New Mexico and other experts on this subject: I would just like to ask a question here and I would like especially for Mr. Keesee to give us a reply to this. We see on the display map the crosshatched area which I believe is involved in this Navajo project. I believe the area part of the map is considerable. Knowing this, I am thinking about what happened yesterday. We were informed that a lot of our Navajo people were quite concerned about a portion of land that would be given up by us. Although that portion of land and that Glen Canyon project was rather small, still the people were very much concerned although the land in that section was perhaps inaccessible, still they

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objected to giving up such land that they have been using. However, what I have in mind and I wish to ask about is the drawing shown on the map. Is it that if the plan is carried out all the land within the crosshatched area on the map would be subject to irrigation or subject to this Navajo project? Is my understanding of it correct? Or, will the irrigation only take place on those portions where we see them colored in yellow and green? Then, what about Navajo stock owners who are living within this area? What would happen to them? They have stock and depend on it and they have certain parts of that land they use for grazing purposes. Just what would take place for them? Would they have to be assigned land for further use, etc.?

Jerry Keesee:

Mr. Chairman and Members of the Navajo Tribal Council:  
In answer to your question, Mr. Valentine, the area crosshatched in yellow is in the irrigated project. (Pointing to map) It is on a part of the project. If you mean the boundary line, this line here, only those lands that are colored, they are irrigated. The lands that are white would not be irrigated.

I believe your next question was in regard to the people living in that area who are raising cattle or livestock. They would have to be replaced or another place found for them. That is only where the irrigated lands are. People who have grazing rights in the area that is not colored will not be affected. People who have land where the project will be developed will be affected. It seems to me it is a question whether the Navajo Tribe wants to have irrigation and take care of more people or have livestock. Of course, you could also raise livestock on irrigated farms.

Walter Collins:

Mr. Chairman and Members of the Council: Yesterday we asked about the completion time of the Glen Canyon Dam. We were then informed it would take years before that would be completed and filled. Now, I have the same question with respect to the Navajo Dam. That is the construction or completion time of that dam and also the filling of the reservoir so those are the two questions I have. How many years hence would we realize the irrigation on those sections colored in green and yellow? That is the third question. We, in District 13, perhaps will be subject to this irrigation very much because many acres involved are in District 13 and although we say we will try to care for the people who have livestock, we must consider the fact that irrigation is something that is needed by the people in that area. Perhaps some of the people are aware of this and for that reason they have not done much in the way of

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filling their carrying capacity in grazing. Then also, there is the school problem that is involved I believe because the situation is such that people are located in widely scattered areas making it very difficult to conform to some central location where they would have schools. I think if these projects are completed within a period of ten years, I am pretty sure it would help the people a great deal probably if they had received training in farming, etc.

The Chairman:

We have three questions. How long would it take to fill? What is the estimated years from now before it is finished and they can start farming?

Jerry Keesee:

It is quite hard to do, but I will give you a guess. The Navajo Dam I believe is scheduled to be completed within five years. According to the information I have from engineering magazines, the contract for the building of the dam is scheduled for February of 1958. As to the filling of the reservoir, if we have one good year we can fill it in one year. The third question is when will we have land for irrigation. We first have to have the project authorized, which is the purpose of this legislation which you are considering now. In the event the legislation is authorized this year and Congress will give us some Sputnik money, we feel in about five to seven years we will have land for development and settlement purposes. It all depends on how largely Congress provides us with money and how rapidly we can get our authorization and much of that depends on the full support of all of you behind this legislation.

I would like to elaborate a little bit more on Grey Valentine's question. The area, particularly in regard to the displacement of people - the irrigated area we have in mind will provide 1400 farm units and that means then that 1400 families can be located on those lands. Just how many are located in that area now I do not know but if the irrigated area was used for irrigated pastures, there would be a great increase in the number of animal units that could be raised on those farms. At present we feel 5,116 sheep units can be supported on those irrigated lands, that is, the year around and if in irrigated pastures, as a matter of comparison, they could support 436,000 sheep units the year round and I believe that is more sheep units than you are allowed on the whole Reservation.

The Chairman:

We will have a ten minute recess.

(Whereupon at 10:10 a.m. a 10 minute recess was taken.)

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The Chairman:

The Council will come to order please. Mr. Ned Hatathli has the floor.

Ned Hatathli:

Mr. Chairman and Members of the Navajo Tribal Council and friends: I have about three questions that I would like to have clarified. On top of that I would like to briefly review the Tribal position in regard to this proposed project.

The first question, Mr. Davis, is the proposed irrigation project, especially in the area lying south of Fruitland and Kirtland, takes in lands which have been leased to the Utah Construction Company and also some leased lands where a lot of oil companies are operating in the Bisti area. What conflict, if any, do we have in regards to this area as far as proposed subjugation is concerned?

My next question, perhaps Mr. Keesee could clarify that: I understand there is some concern as to who is going to be responsible in the subjugation of these lands. At first we understood the Bureau of Indian Affairs was going to undertake the project, but lately I have heard the Bureau of Reclamation was going to subjugate these irrigation lands. I believe that question is very important because of the fact if we know for sure the Bureau of Indian Affairs is going to take over the subjugation project, there would be jobs available for some Navajos and if the subjugation of lands is going to be taken on by the Bureau of Reclamation, we will probably run up against the same obstacles we have encountered in regard to the Glen Canyon Dam Project where a lot of that construction work is under Union organization.

My third question has to do with the two proposed dam projects, the Navajo Dam and the Glen Canyon Dam. You will note these two major projects are situated very closely on the same stream. What difficulties or what conflicts have we to encounter here in regards to the amount of water that each dam is counting on for future use? This probably has all been determined and we would like to get that information from the experts. The Navajo Tribal Council has gone on record as far back as I can remember for the last seven years favoring this Upper Colorado River Storage Project which includes the Navajo Dam. We have exerted some effort. We have spent money in pushing and in helping out these projects. A lot of you Council members have been members of the organization which went to Washington a number of times to lobby for this cause. The organization I am referring to is the Aqualantes. I believe the thinking of every member of the Council is that we hope that we will see the day in the very near future that this proposed

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project would be a reality, so what have we got to say to that other than to just approve the proposed resolution and the Bill which is attached, asking for these funds of Congress so that we can instigate the irrigation project. We will probably run up against a lot of difficulties. We have already. We have heard about man-made moons going around the earth which is taking a lot of money away from domestic projects. We may encounter the same difficulty when we present this Bill requesting funds for this irrigation and by a Presidential Order issued recently we know we are going to encounter this obstacle where it will be hard to get funds for the purpose we have here.

In the last two years that I have worked with the various representatives, I find these men who are here today have worked very diligently for this cause - Mr. Reynolds from the New Mexico Stream Commission and Mr. Dean Person who is employed by the Tribe, Mr. Keesee and our attorneys. I think this would be a good time to thank each and every one of them for the fine devotion they have given us in working with us, in working out a lot of these problems and finally, we are proposing a Bill to Congress requesting funds and authorization so that some day we hope to relocate a lot of our Navajo people on this irrigation project. With this in mind, and with the thinking that every member of the Council is in favor of this, I would at this time make a Motion that we approve the proposed Resolution and attached Bill. Let us get behind this proposal of a dam and see if we can get it through Congress. I believe if and when we get these irrigation lands available, we will have people to go on these irrigated lands. We have already expended money and will expend more money in the next eight or nine years training our own Navajo people in the Shiprock farm training program so that we will have men available who will know how to make a living off the land.

The Chairman:

Mr. Davis, can you answer the first question?

Harry Davis:

Mr. Chairman and Members of the Council: I will just answer the first question which is about the possible conflict between the irrigated area and oil leases. Mr. Keesee can answer the question of conflict with the Utah Construction Company coal lease and the question of who is going to build the project, the Bureau of Indian Affairs or the Relocation Bureau. The fourth question about the possible difficulties of filling the Glen Canyon and Navajo Reservoir will be answered by John Bliss who is a member of the Upper Colorado Stream Commission representing the State of New Mexico.



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I want to say on behalf of myself and also Mr. Reynolds, Mr. Keesee, Mr. Bliss and Mr. Crosse and all the other people from the State of New Mexico and the Bureau and Tribal staff who worked on getting this project on the road, we appreciate this nice expression of thanks that Mr. Matathli made.

Now, as to the question of oil leases: This part of the area is covered with oil leases and probably all of it will be covered with oil leases at one time but all the oil leases by the Navajo Tribe give the oil company the right to occupy only so much of surface as is necessary for their activity in getting oil. The ordinary spacing of oil wells is only one well to every 40 acres. They are also required to bury their pipes sufficiently deep in the ground so that they will not interfere with cultivation. During the development period, when they are drilling wells, then they do tear up quite a bit of land and they occupy quite a bit of land but, as soon as the oil well comes in and the oil field gets stabilized, at the most they would only occupy one acre around every oil well and, in many cases, they do not occupy only a few feet around the oil well and by the time this project is completed, the oil activities will constitute hardly any interference at all with the irrigation of the land. There will be only one oil well every forty acres and just a few feet around the oil well.

Jerry Keesee:

In regard to the coal bed, I saw a map yesterday, but the particular beds they had in mind were not outlined and at this time we cannot tell how much of the irrigated land might be affected. I think it will be a very small amount. The map I saw yesterday indicated that the corridor is approximately southwest from Fruitland and in that case, it will only interfere with a little bit of land in here. This does not mean this land will be taken out in that any bed of coal lying there might be too deep to be profitably stripped and until they determine the location of those beds and where the operation will be, we cannot tell what the interference will be, but it will be a very small area involved and what is taken out will be replaced in some other place. As you go on and build the project there is still a final determination to be made on it. In February of last year the Commissioner of Indian Affairs wrote to the Undersecretary requesting that the project be turned over to the Bureau of Reclamation for construction and also for financing. It was apparently their decision that the money for the Navajo Project would have to be supplied from the appropriations under the Upper Colorado River Storage Project Bill, which is Public Law 485 and I think that was the basic reason why they requested the Secretary to transfer the

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construction of the project to the Bureau of Reclamation. The Commissioner of Indian Affairs in the preparation of his memorandum to the Secretary did not consult with the Commissioner of Reclamation and it was not until some months later that the Commissioner of Reclamation was advised of the plan. Prior to the time the Secretary issued a memorandum to both Commissioners transferring the project, the Commissioner of the Bureau of Reclamation wrote a letter to the Secretary regarding the Bureau of Reclamation's position. On August 16th, the Undersecretary, Mr. Chilson, issued a memorandum to the two Commissioners to the effect that the Bureau of Reclamation would build the Navajo Project. On the basis of that, the Commissioner of Reclamation sent a telegram to Salt Lake requesting \$600,000 be included in their budget for 1959. The Budget I left with the Bureau of Reclamation would justify the expenditure of \$600,000 and also include \$525,000 for the fiscal year 1950 and those budgets were submitted along with the Bureau of Reclamation's request that it be specifically identified as money for the Navajo Irrigation Project.

In order to carry out the directive of the Secretary, there was definitely certain correlation that would have to be done between the field offices of both the Bureau of Indian Affairs and the Bureau of Reclamation. In order to present those to the two Commissioners, Mr. Helander, Mr. Miller from Washington and myself met with Mr. Larsen's staff in October. Based on various correspondence which consisted of four letters and one telegram, we tried to clarify the situation and prepare the memorandum to both Commissioners.

The Bureau of Reclamation's stand was that they interpreted the Secretary's order that they would be a construction agency only which would include the design and supervision of construction of the main canal. There are other steps that must be taken before the project can be built. The main canal delivers your water, but how is the water to be distributed? How is the land going to be subdivided? There are other questions in developing a project plan. The Bureau of Reclamation felt they were not in a position to take over that type of work in view of the fact they had no contacts with the Navajo Tribe in developing the feasibility or authorizing report and were not qualified along those lines. The Bureau of Reclamation was quite emphatic that they would not be responsible for the operation and maintenance of the project on and after its completion. Likewise, they were very reluctant to design and build the distribution system which would be necessary to serve your lands. They were willing that the funds for the development or building of the project should come from their funds allocated under the Upper Colorado River Storage Project for the development of those projects. There is no objection to that. At the meeting in October, with a memorandum addressed

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to both Commissioners to clarify the field position, we agreed that the funds for the project would be included in the Bureau of Reclamation Budget but the expenditure of those funds might be between the Bureau of Reclamation and the Bureau of Indian Affairs depending upon the phase of the work to be done.

The Bureau of Indian Affairs would have to justify the expenditure of money requested from the Bureau of the Budget for that project. The Bureau of Reclamation would not justify those funds. It was definitely agreed that the responsibility for developing the project plan and definite plan report would be that of the Bureau of Indian Affairs and that we could call on the Bureau of Reclamation for any field work such as geological investigations and designs and estimates that we did not have sufficient people to do, but the responsibility of that plan is ours.

The Bureau of Reclamation agreed to take the responsibility of designing and constructing the main canal and various structures upon the location made by the Bureau of Indian Affairs. It was also agreed that the Bureau of Indian Affairs would be responsible for the operation and maintenance of the project works during and after construction.

In the development of the distributing system and assigning of farms in the field, we took the position also that it would be the responsibility of the Bureau of Indian Affairs.

About the middle of November a copy of this memorandum was sent to the Commissioner of Reclamation as well as to the Commissioner of Indian Affairs for final decision as to the program that had been developed by the field forces to implement the Secretary's orders and as to this date we have not received an answer to that. However, the Area Office recommended its adoption with the exception of the development and distribution on the lateral system which seems to be the only conflicting item in the memorandum as far as the Area Office is concerned. Since the development of the lateral system and development of the farm units will not occur until after your main canal is built and your main lateral, it does not seem that is a particular point at this time, because it may be four or five years after you start your main canal before you begin to develop any of your lands and whether we are wise in attempting to make the decision at this time I do not know. It may be changed but, as the matter stands now, the Bureau of Indian Affairs will build the distribution system and develop the farm units and that is about all I can give you on that.

In regard to the fourth question asked by Mr. Hatathli, Mr. John Bliss will answer that. Mr. Bliss -

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John Bliss:

Mr. Chairman and Members of the Council: I was not here during all of Mr. Hatathli's questions, but he asked if there was any conflict in the filling of Glen Canyon and the filling of the Navajo Reservoir. I want to assure you there is none. The compact provides for two types of reservoir, like the Navajo, which is designated to supply water for an irrigation project. They have the first rights. The water we have to send down to the lower basin is trapped in the larger reservoir like the Glen Canyon and that is used to deliver water to the lower basin and develop the power and they get the water after the irrigation water is fully taken care of.

The Chairman:

May we anticipate any more objections from Southern California to the use of the Glen Canyon water?

John Bliss:

Mr. Jones, I am sure we can expect all kinds of opposition from Southern California! (Laughter) They are going to do everything they can, of course, to prevent any use of waters in the upper basin, because if the water is not used, it goes down to them and they get to use it. However, we have all the river on our side and the right to develop power in the Upper Basin and we are certainly going to do our utmost to see it is fully and properly developed. Does that answer your question, Mr. Chairman:

The Chairman:

Yes.

Clifford Beck:

Mr. Chairman and Members of the Navajo Tribal Council: I did have a question but that has been asked by Mr. Walter Collins and now we have a full explanation given about these projects and what they would do. Yesterday we were informed it would be perhaps twenty years hence before we would find the reality in the building of the Glen Canyon Project. I also was concerned as to how long before we would see the Navajo Dam to be completed and how soon it would be filled but my understanding now is that it will be less than ten years. Since we are clear on many of these things, I feel we should now act upon the Resolution that is before us. Mr. Ned Hatathli has already explained the Tribe's position in regard to the Bill, that we are supporting it and, for that reason, I would like to second the Motion he has made.

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Henry Taliman:

Mr. Chairman and Members of the Council: I had in mind that we would have some word on these projects from our Superintendent. I would appreciate the Chair asking him to give his views on the matter. I was going to ask that the original information be given but it has already been done.

Yellowman:

Mr. Chairman and Members of the Council: I would like to just make a brief statement about this proposal that we have been discussing. I see that it involves lands that are situated in Districts 12 and 13 according to the display map which experts have been telling us there would be water available to take care of the entire Navajo project as represented by this map. Of course, I do not object to this plan, etc., but I do know that since my boyhood days, people all along the San Juan River have been using it for irrigation purposes. We have people who are situated west of Shiprock community, through the Shiprock community itself, Fruitland, up around Farmington and up to this proposed Navajo Dam where other people have farms and they are using the San Juan River for their irrigation purposes. I know that this covers a large group of people, different groups and also a considerable size of land.

In planning these proposals, it is suggested that a diversion would be made toward Albuquerque and another towards the Navajo Irrigation Project. However, I have this in mind. In some years we experience a drought. We see less water. In times like that we know that would be a hardship on some of these different groups of people who are utilizing the San Juan River. We know that when we have poor years there would be little snow in the mountains that contributes to the tributaries of the San Juan. Last year we had a good year when we had heavy rains and there was a good supply of water but in case of years of shortage I feel there will not be sufficient water to take care of all these people who are scattered along the river I have mentioned. Of course, when these projects are completed there will be farms available for Navajo people, but it will not be the older people like us. I am pretty sure it would be for the benefit of our children who are now presently in school. I would like to say I am concerned about the poor years that we may see ahead because I still feel there may not be enough water but, according to the experts they feel this is reasonable and that everybody will still get a share, but I feel it may not be enough. Like I have stated before, it is primarily for the Navajo children that are now in school. We have them but as soon as they reach the age of six, we have to get them to school. Also, we seem to be losing out on the livestock programs that



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we have had. It was simply because of livestock that a lot of us had missed out on education but now we seem to be getting away from that a little and I feel sure once these projects are completed that it will benefit a lot of the Navajo children who are now in school. Now we have a Motion and there was a second to it to adopt this Resolution and the Bill attached and I think we are now ready to act on that.

The Chairman:

I believe Mr. Valentine has a question yet.

Grey Valentine:

Mr. Chairman and Members of the Navajo Tribal Council, our legal representatives and other representatives who are present with us. I would just like to express my appreciation for the fact that all these people have had a hand in completing these documents showing what we are trying to do and what we are requesting. We appreciate the fact that they have worked hard to accomplish this much for us but there seems to be one point that we have not actually brought out here as yet. We seem to be discussing everything else but that and that is that. This Bill will be transmitted to Washington where we hope it will be acted upon by the Congressional body, people that are in that Congress. People there in that Congress are formulating plans and approving laws and other enactments so that it will be beneficial to the people as a whole so we hope that they will consider this very favorable for us. I am especially concerned about the appropriations that would be needed for these projects. Usually when there is an appropriation made, there is always a reduction or manipulation of funds appropriated. I hope that will not happen in this case. We know that the United States Government is now engaged in one urgent program which is the satellite program that is new. Of course, we do not understand what it is all about but we now find they have developed or have progressed to such an extent that they have now been able to get out into outer space with certain instruments. They are proposing to send rockets and other missiles that may reach the moon. Some of us understand it is primarily to seek habitable planets in space. Once that is realized, I wonder what group of people they will dispatch to these foreign areas? Perhaps these are quite funny, but still I would like to come back to the land and say the area we have in mind that we are discussing, is pretty well populated with people so I think that is something we know of and, for that reason, everything should be done so that this Bill could be passed and thereby start these constructions so that the people may get these farms and utilize the water system that will be available.

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but my statement is that I am fearful of the fact they will start cutting some of the funds that may be appropriated for this purpose.

Again I wish to thank the gentlemen who have been working for us in formulating these plans.

Tyler Harris:

Mr. Chairman and Members of the Navajo Tribal Council: Since I am from an area that is very near this project, or actually in it, I think I am very much aware of the land that would be involved once this canal has been built. The land involved would be in District 19, 13 and 12 and I feel I am in a position to know the contour of the land that would be subject to irrigation once this project has been completed. Also there are allotted areas that would be involved. We have white ranchers that have fenced out certain portions of land thus depriving the Navajo people of land use rights so I feel once this project is undertaken and completed, perhaps the Navajo people will be able to utilize the lands that are now fenced out. I am from the Bisti area and there we know of a lot of oil activities. Oil companies have come in and have taken leases. Of course, this irrigation system will not reach that area but still I would like to stress the fact that I feel that once the water is available, it would benefit a large number of our Navajo people. This is because I know the land there would be subject to irrigation once that project is completed.

I also wish to express my thanks to the people who have helped in getting this work done and making all the plans for us, etc., and I would like to conclude with that.

The Chairman:

I just want to comment briefly on this. First of all I wish to say that we are happy that so much interest has been expressed in this project that we have been discussing for several years. Your enthusiasm for that has not diminished to any great extent and with the changes that we anticipate that might happen in the next two years, is something that you have given thought to and you feel it will be very beneficial to our young people and more so since we have an annual report made by our Superintendent, where one of the statements made was that we only received 11% of our income per year from livestock, meaning that 89% comes from other sources and the more we engage in business, the less space there is for livestock and we know that. There are also some suggestions for more livestock but there is no question in our minds, those of us who are older, we are used to all the space to herd the stock. That is no longer available. There are people living everywhere. I am

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happy you are planning something in the future for our younger generation, concerned over the possibility of arriving at the stage where Congress will give us the necessary funds to build that project, but it is somewhat hazy, but yesterday Russell is asking that we do away with weapons of war. I hope they do that, and that is the reason we think the money will not be forthcoming and all of you I am sure are grateful for the help extended to us by the Upper Colorado Stream Commission and the office of the State Engineer of New Mexico. Some ten days ago we met with him and we, in turn, invited him today and we have heard the expressions of gratefulness to him and his staff. We were grateful for the help given to us.

All those in favor of this Resolution please stand.

70 Council members approve.

The Chairman:

All those opposed?

None opposed.

John Bliss:

Mr. Chairman and Members of the Council: I know your time has run out. I do want to take this opportunity to thank you for the action you have taken today. I think you have made a wise decision to share this water, the remaining water in the San Juan and that it is an excellent one to make the best use of the water in the years to come. I might explain to you that this question has been brought to you folks first. We still have to take this matter up with our State officials and representatives in Congress but I am sure they understand the situation and that they will act properly in this matter. There is no question about it. I thank you for your action. (Applause)

The Chairman:

We will recess at this time for lunch. At 1:30 the Advisory Committee will meet.

(Whereupon, at 12:05 the Council recessed until after lunch.)

NOTE: There was no Advisory Committee meeting at 1:30 and the Council resumed its session at that time.

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1:30 p.m.

The Chairman:

Please call the roll.

Carl Beyal:

Called the roll. 70 Council members present.

The Chairman:

We have a quorum of the Council members present and we would like to tell the Sergeant-at-Arms for a little while that we will have an Executive Session and no one outside the Council members are to be present. All non-Indians should be excluded from the room while we are discussing this particular subject.

EXECUTIVE SESSION

The Chairman:

This session has to do with an Advisory Committee meeting last night wherein we were presented an announcement that during the bid opening day on the 10th and also subsequent to it, a letter from the Deputy Commissioner Barton Greenwood was discussed and during the time we discussed it and we adjourned, it was our understanding to keep our information to ourselves. I know some of the Council members were inquiring what the meeting was about and that will be related to you by our Counsel, Mr. Littell, at this time.

Norman Littell:

Mr. Chairman and Members of the Council: There was an announcement made by Mr. Clark presiding over the sale - some of you heard it, who were there - to the effect that the bidders on four tracts - #13, #14, #18 and #22 will get their money back if it proves that those tracts are not within the Navajo Reservation. The money would be impounded and held until final determination as to whether these tracts were on the Navajo Reservation.

I was shocked by that announcement because in recent weeks we have been subject to a number of requests in the Legal Department and here in the Executive Offices of the Tribe, to put a condition on your offer of leases that if title would not prove out, that they did not prove to be on the Navajo Reservation, then the bonus would be refunded. In each case, while we considered those matters carefully and particularly in respect to the most earnest contention from some quite