

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

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, and

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, and

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, and

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 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, and

5. While the original Feasibility Report on the proposed Navajo Indian Irrigation Project, dated January 1955, contemplated a 137,250-acre project, 20,600 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 water 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, and

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, and

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 advisor to work with representatives of the Navajo Tribe and the Department of the Interior to make further refinements in the proposed legislation, and

8. The State Engineer of New Mexico and the legal advisor 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, with revisions in sections 4 and 7 is attached to this resolution, and

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 in 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 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 water of the San Juan River not heretofore authorized be given priority ahead of the Navajo Indian Irrigation Project.

C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Arizona, at which a quorum was present, and that same was approved by a vote of 70 in favor and 0 opposed, this 12th day of December, 1957.

/s/ Paul Jones

Chairman
Navajo Tribal Council

A B I L L

To authorize the Secretary of the Interior to construct, operate, and maintain in 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 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.

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 (d) thereof.

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 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.

(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.

(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 interest in lands shall be held by the United States in trust for the Navajo Tribe of Indians and the price of such lands or interest 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.

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.

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. 857; 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.

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.

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.

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.