

F A C T S H E E T

NAVAJO INDIAN IRRIGATION PROJECT



I. Project Features

- A. Diversion and storage into main canal will be provided by the Navajo Dam and Reservoir that are not parts of this Project but that are currently under construction as the Navajo Storage Unit of the Colorado River Storage Project.
- B. A main gravity canal from Navajo Dam to the inlet of the Kutz Canyon Pumping Plant -- capacity 2,630 cubic feet per second, in addition to carrying water for irrigation purposes part of the canal capacity will be used to supply municipal and industrial water.
- C. Gallegos Powerplant to generate 15,000 kilowatts of power used solely to operate the Gallegos, Newcomb, and Bennett Peak Pumping Plants. 1,150 cubic feet per second of water will be available to generate the maximum power requirements.
- D. Lands to be irrigated:
  - 1. 110,630 acres for exclusive use of Navajo Indians.
  - 2. 1,120 new farms.
- E. Land ownership:
  - 1. All of the 110,630 acres except 8,915 acres is on the present Navajo Indian Irrigation Reservation.
  - 2. The additional land will be acquired by the Navajo Tribe.

II. Costs of the Navajo Project under H. R. 7596:

A. Approximately \$135 million.

III. Repayment

A. Under the Act of April 11, 1956 costs of the Project within the capability of the land to repay are subject to the Act of July 1, 1932 (47 Stat. 564) and are not subject to repayment as long as the lands remain in Indian ownership. Costs in excess of the ability of the lands to repay are to be nonreimbursable under the terms of the Act of April 11, 1956.

B. In accordance with Section 4 of H.R. 7596, the Secretary may provide capacity in the Navajo Canal for the conveyance of municipal and industrial water supplies providing that before construction is undertaken contracts will be entered into for the repayment of all costs, plus interest allocated to these purposes.

IV. Benefit cost ratios:

A. 100-year analysis:

1. Direct irrigation benefits, 0.64 : 1.
2. Total irrigation benefits, 1.14 : 1.
3. Total irrigation and school benefits, 1.62 : 1.

B. 50-year analysis:

1. Direct irrigation benefits, 0.52 : 1.
2. Total irrigation benefits, 1.17 : 1.
3. Total irrigation and school benefits, 1.31 : 1.

NOTE: The above benefit cost ratios do not include prior investigation costs of \$947,000, nor the cost of Navajo Dam and Reservoir.

V. Water Supply

- ✓ A. Water will come from Navajo Reservoir behind Navajo Dam.
- B. Diversion requirements: 508,000 acre feet.
- C. Depletion: 252,300 acre feet, plus a share of 39,000 acre feet due to losses from the reservoir.
- D. All water supply studies show an adequate water supply with reasonably tolerable shortages.
- E. For additional information on water supply see same subject under San Juan-Chama Project.

VI. Indian Lands

- ✓ A. Project will consist of 110,630 acres exclusively for use of Indians.
- B. All except 8,915 acres will be on the present Navajo Indian Reservation.
- ✓ C. The additional acreage will be purchased by the Navajo Tribe. The present value of this land is represented to be about \$13 to \$14 per acre.
- D. Only Class 1 and Class 2 lands, the very best lands, will be irrigated.

VII. Benefits to Navajo Indians

A. Number of Indians Benefitted:

1. 1,120 families on farms.
2. Employment created for an additional 2,240 families.
3. Indirect benefits leading to a decent living for a total of about 20,000 people.

B. Savings to the Government in relief and compensation payments:

1. For 1958 the average per capita income for the Navajo Indians was only \$467 compared to the National average of \$1,940.
2. Approximately 16.2% of individual Navajo income is derived from welfare, unemployment compensation and similar sources.
3. 83.8% is earned income.
4. Raising the economic base for 20,000 Indians will greatly relieve the Government in its payments for relief and welfare assistance.
5. Expanded employment opportunities will concentrate the population reducing the cost of educating the Indians.

C. Stabilization of livestock industry:

1. The lands proposed for development are now used by individual Indians under assignment from the Tribe to support only 5,116 sheep units per year. Under irrigation these same lands would support 436,000 units per year.

VIII. Legal

- A. United States Treaty Obligations to the Navajo Indian under Treaty of 1868.
  1. Recognition of importance of settling Indians on agricultural lands so that they may be properly educated.
  2. Heads of families entitled to 160 acres for cultivation.
  3. Persons over 18 but not heads of families entitled to 80 acres for cultivation.
  4. United States to educate Navajo children.
  5. United States to provide seeds and agriculture implements to Indians.
  6. United States to adopt laws and acts conducive to securing "permanent prosperity and happiness of said Indians."
  
- B. Lawsuits:
  1. Navajo Tribe vs. The United States for damages pursuant to Indian Claims Act pending before Indian Claims Commission.
  2. Above lawsuit has no effect on this project.
  
- C. Indian Water Rights.
  1. Indian water rights from San Juan River in New Mexico have not yet been defined by a court decree.
  2. A "reserved" right of Indian tribes to divert and use water flowing in river channels through Indian reservations has been recognized by the United States Supreme Court since 1908 (Winters v. U. S. (1908), 207 U.S. 564). -- The so-called "Winters Doctrine."
  3. All water uses from Navajo Dam will have equal priority. Under this agreement the Navajo Tribe has relinquished its rights under the Winters doctrine in order to provide a practicable plan for comprehensive development of the resources and industrial potential of the San Juan Basin.
  
- D. Lawsuit Arizona vs. California
  1. Has no effect on this project since suit does not have the Upper Basin States as parties.
  
- E. For other legal aspects see Section under San Juan-Chama Project.

IX. Municipal and Industrial Water

- A. In accordance with Section 4 of H. R. 7596, the Secretary may provide capacity in the Navajo Canal for the conveyance of municipal and industrial water supplies providing that before construction is undertaken contracts will be entered into for the repayment of all costs, plus interest allocated to these purposes.
  
- B. The cities of Farmington, Gallup, Aztec, and others are rapidly approaching the point where the needs of their population are going to far exceed their present available water supply thus assuring an adequate market for any municipal or industrial water that will be available.

X. Separation of the Navajo Indian Irrigation Project from the San Juan-Chama Project.

There is a cogent argument against the separation of the Navajo Indian Irrigation Project from the San Juan-Chama Project. In order to develop this argument it is necessary to consider some of the background to the proposed joint authorization.

The State of New Mexico and the Navajo Indian Tribe have diligently worked out between themselves the water supply problem for these two projects so far as the legal questions involved. In the past, Indians have relied upon the famous "Winters Doctrine" as announced in the case of Winters vs. United States, 207 U. S. 564, as the keystone for all Indian water claims. However, in the case of New Mexico and the Navajo Tribe, by mutual negotiations the Navajo Indians have agreed to abandon the Winters Doctrine and fully cooperate with the State of New Mexico in order that the maximum beneficial uses of the water can be secured in this particular Basin.

As indicated in the Hearings on this project before the House Subcommittee on Irrigation and Reclamation, page 35, Mr. McCabe, speaking for the Navajo Tribe, stated:

"We have agreed with the State of New Mexico that the Navajo Indian Irrigation Project should be presented as a package. We adhere to that agreement."

Again on page 46 in a letter dated April 24, 1961, Mr. McCabe stated:

"In reaching an agreement with the State of New Mexico and other members of the Upper Colorado River compact, the Navajo Tribe qualified its position in respect to legal rights which the tribe enjoys under the doctrine of Winters v. United States (207 U. S. 564), assuring to it certain paramount rights in respect to waters of the San Juan River, among others, in order to accomplish a practical and equitable division of water among all parties concerned. This concession was only agreed to by the tribe in consideration of getting the Navajo irrigation project established in New Mexico as provided in the above bills.

"It should be known to the committee and other interested parties that the Navajo Tribe will not consider itself bound by this agreement unless the irrigation project is in fact established. It is clearly understood by all interested parties, I believe, that the tribe's concession in respect to the Winters Doctrine applies to no other situation than this one."

It can be seen that for the first time an Indian Tribe has conscientiously attempted to assume responsible citizenship by working out through negotiations problems on the use of a natural resource to the mutual satisfaction of all parties. This action can well serve as a precedent for future settlement of like problems that exist in other States which have Indian citizens. Congress should aid in this type of mutual accommodation. The separation of these projects can only lead to continued friction between the Indian and the non-Indian water users in the West. Any action which would bring to naught this agreement can only be a backward step in the relation between the Indian citizen and the White citizen in the various States. The united front presented by these two groups in New Mexico on these two projects is a remarkable example of cooperation and should receive the full sanction of the Congress of the United States.