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S. E. Reynolds, State Engineer

Notes on November 23, 1965 Conference with Senator
Anderson

Those attending the conference in addition to Senator
Anderson and myself were I. J. Coury, John Bliss, Hilton Dickson
and Claud Mann.

H. R. 4671, Legislation to Authorize the Central Arizona Project

It was confirmed that Senator Anderson would continue to
attempt to negotiate with the Arizona congressional delegation
an agreement on Hooker dam and increased uses in New Mexico.
It was also confirmed that the "Principles of an Agreement between
Arizona and New Mexico" forwarded to Senator Anderson by my
letter dated June 16, 1965 constitute a reasonable and proper
basis for these negotiations.

I pointed out that at the August 26 hearings on H R 4671
New Mexico had taken a position on only one of the four principles
enunciated in the resolution adopted by the Upper Colorado River
Commission on August 16, 1965 and that Congressman Aspinall had
accused us of abandoning our Upper Basin interests.

I pointed out that if Colorado approved the September 20, 1965
draft of H R 4671 she would have ignored the principles of the
Commission resolution to a much greater extent than had New Mexico.

(From a conference with Ray Moses on November 24 it appears that Colorado will approve the September 20 draft with all conditional authorizations eliminated).

It was agreed at the conference that the position taken by New Mexico at the August hearings was reasonable and proper and that we should maintain that position at least for the time being.

Navajo Reservoir Contract

We advised the Senator that Interior Department negotiations with Utah Construction Company and El Paso Natural Gas Company for contracts for water from Navajo reservoir seem to have bogged down in three issues: 1) A paragraph relating to coordination of power generation and transmission. (See attachment A). 2) The question of whether the Secretary would contract with a fuel company for water to be used by an electric utility, and 3) The price of water. We told the Senator that the Department was contemplating raising the price of water to about \$7 per acre foot because of the relatively high percentage of consumptive use in the application of water to power generation and that I didn't believe this question was substantive. I also told the Senator that I had advised Commissioner Dominy that the paragraph on coordination of generation and transmission seems vague and

uncertain and that those seeking contracts could reasonably so complain; that I had told the Commissioner that I thought the necessary Department decisions should be made quickly so that meaningful negotiations could go ahead; and Utah Construction Company and El Paso Natural Gas Company have been advised that the Interstate Stream Commission wants them to continue negotiations with the Bureau of Reclamation to develop another draft of contract before the Commission takes further action in the matter. The Senator seemed to agree with this manner of proceeding.

Adjudication of Pueblo Indian Water Rights

The Senator was advised that in order to properly administer the water to be imported by the San Juan-Chama project it is necessary to adjudicate Indian and non-Indian water rights on the Rio Chama and other tributaries of the Rio Grande in northern New Mexico. Indian Pueblos involved are Taos, San Juan, Santa Clara, San Ildefonso, Nambe, Pojoaque and Tesuque. The Senator was further advised that representatives of the State Engineer Office had met with the All Indian Pueblo Council on November 20 and that the Council seemed considerably disturbed and generally unsympathetic with the move to adjudicate their water rights. I suggested that he would probably be hearing from the Indian

Pueblos but that we had no choice in the matter and would have to proceed with the attempt to adjudicate Indian water rights. The Senator seemed to understand the necessity of this move.

Navajo Indian Irrigation Project

1. Appropriations

I. J. Coury pointed out that the Bureau of Indian Affairs has the responsibility of requesting appropriations for the irrigation project and that it is apparently the practice of the B I A to let the irrigation project appropriation take any cut in the budget they propose. The result is that construction is being delayed. I J pointed out that we have discussed this problem with Secretary Udall and asked him to straighten it out. Senator Anderson asked I J to give him a letter setting out the details of the problem.

2. Bureau of Reclamation Reappraisal Report on Navajo Indian Irrigation Project

I advised the Senator as follows:

The Bureau of Reclamation Reappraisal report indicates that the Navajo project should be constructed in two stages: stage 1 to include about 77,000 acres all east of Chaco Canyon and stage 2 to include about 33,000 acres all west of Chaco Canyon. The first stage would cost \$145 million which is the

indexed ceiling set on appropriations by P L 87-483 (the legislation authorizing the San Juan-Chama and Navajo Projects). The total cost for the full 110,000 acre project would be about \$205 million.

Rough estimates indicate that if it is concluded that the second stage cannot or should not be constructed about \$10 million of the first stage construction costs could be saved by not providing canal and pumping plant capacity for the second stage. A decision to eliminate such capacity would reduce flexibility in future uses since the extra canal capacity might be used to take water for M & I use to the reservation or to Gallup if not used for the second stage.

The Bureau's feasibility grade land classification studies indicate that much of the land originally intended to be irrigated west of the Chaco is not suitable for irrigation and that lands east of the Chaco should be included in the project in lieu of lands west of the Chaco. The reappraisal report shows that about 15,000 of the 77,000 acres to be irrigated east of the Chaco lie outside of the townships in which the Secretary is authorized to acquire lands for the Indian Irrigation Project. Congressional authorization to acquire lands in four additional townships will be needed.

In a conference in Secretary Udall's office in August 1965,

I. J. Coury and I discussed the development of the Navajo Project with the Secretary. The Secretary suggested that the Navajo Project should be cut back to the first stage now in order to reserve water for potential municipal and industrial use. I told the Secretary that because of my activities in the negotiation of agreement on the San Juan-Chama and Navajo Irrigation Projects I could do nothing overtly or covertly to cut the size of the irrigation project. I felt obliged to support development of the project to the full 110,000 acres in every reasonable way. I told him that I recognized that it might be impossible to increase the ceiling on authorization to complete the project because of high cost per acre and that it might be unrealistic to attempt to do so. I recognized that the loss of the second stage of the project would not be entirely detrimental since it would make water (approximately 82,000 acre feet of depletion) available for future municipal and industrial use either on or off the reservation. I made it clear to the Secretary that I was not speaking for Senator Anderson or Governor Campbell.

Claud Mann stated his view that he and other members of the Commission staff and the Commission itself were bound by their activities in the negotiations in the same way that I outlined to the Secretary.

I suggested that we should proceed in the following general

manner:

- 1) Ask the Bureau of Reclamation to arrange a meeting with representatives of the Navajo Tribe to make them fully informed of the problems and necessary action.
- 2) Get the congressional authorization necessary for the acquisition of lands east of the Chaco River.
- 3) Defer the final decision on the second stage and any attempt to increase the authorization ceiling until there is a demonstrated need for the development of the second stage lands or until it is clear that the 82,000 acre feet of depletion tentatively allocated to these lands is needed for M & I purposes.

If, before the second stage of the irrigation project is undertaken it becomes clear that the water is needed for M & I purposes the need for and prospects for the second stage could be reviewed and if it appears advisable the water could be re-allocated to such M & I purposes by a contract approved by the congress in accordance with P L 87-483. All affected New Mexico interests including the Navajo Tribe would have opportunity to participate in formulating the state's position on such a contract. If all interests could not be satisfied in these negotiations each would have an opportunity to be heard by

the committees of the congress before the question is ultimately decided. There will be some advantage to preserving the congressional authorization for a full 110,000 acre project if M & I uses for the water do not develop.

I suggested that the Indians may take the position that if the second stage is not to be built the water allocated for this second stage should be reserved for municipal and industrial use on the reservation. I stated the view that the negotiations on the Navajo and San Juan-Chama Projects did not commit water allocated to the irrigation project but not used thereon to other uses on the Navajo reservation.

Hilton Dickson stated that from his somewhat objective point of view it appeared that there would be some merit in the Indian's position if they contended that water not used on the irrigation project should be reserved for other uses on the reservation. This view is readily understandable. On the other hand, the Commission has not taken the position that the water now available from Navajo reservoir for M & I purposes (100,000 acre-feet of depletion) should be restricted to non-Indian use. For example, the Commission has approved a contract with Utah Construction Company for 30,000 acre feet of water to be used on the Indian reservation. It would appear short sighted to reserve the 82,000 acre feet of unused irrigation water for

for municipal and industrial use on the reservation and also contract large portions of the 100,000 acre feet currently available at Navajo Reservoir for use on the reservation. Current firm proposals for contracts for water for industrial use on the reservation aggregate about 80,000 acre-feet. If the Indians contend that the unused irrigation water should be reserved for use on the reservation there will no doubt be counter contention that the commitment of water for the Utah Construction contract should be reconsidered, and the 100,000 acre-feet of depletion now available at Navajo Reservoir should be reserved for non-Indian use.

I J pointed out that many months ago the Indians signed a contract for the Navajo project which waives any right the Indians may have under the Winters Doctrine but that the contract has not yet been signed by the Secretary. I pointed out that the contract specified a project of 110,630 acre feet and an average annual diversion of 508,000 acre feet and that the Secretary probably had not signed it because of the remaining uncertainty as to the ultimate size of the project. Senator Anderson indicated an intention to look into the present status of this contract.

Senator Anderson indicated that he wanted to review the record before taking a final position on the issues involved

in the Navajo project development. I am not sure that I can fairly state his reaction on first impression but I think it was somewhat as follows:

1) We should ask the Bureau of Reclamation to schedule a meeting with the tribal representatives to discuss the problems to be faced in project development and the state should be represented at the meeting.

2) The state should not attempt to cut the size of the irrigation project in order to increase the amount of water available for municipal and industrial purposes.

3) There should be an understanding now that the second stage of the project will not be developed; per acre costs are so high that it would be unrealistic to attempt to get the appropriation ceiling raised.

4) There should be an understanding now that the water not used on the irrigation project will not be reserved for use on the reservation.

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SER/wbf

Attachment