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August 22, 1951 - 9:15 A.M.

The Meeting was called to order by Chairman Sam Ahkeah at 9:15 a.m.
Roll Call was answered by 63 Delegates.

CHAIRMAN:

We have a quorum of the Council Members so the Council Meeting will be in order.

These gentlemen back here are the gentlemen that know about the San Juan River question. That discussion will be in order at this time. Mr. Humphries here is the water lawyer from Los Angeles; Mr. Keese; Mr. Goudie from Irrigation; and Mr. Persons. We have another group interested in this discussion that will probably be here in a short while. They aren't here yet. We have Mr. Person here whom we employed to make an investigation of that project and we would like to have him report to the Council about his work. After his talk if members of the Council want to ask questions about his work I think you are free to do so.

MR. PERSON:

Mr. Chairman and Members of the Council and Visitors. I have submitted my written report to your Chairman. Instead of going through the written report today in detail I am going to summarize the important things.

In my instructions when I took over this assignment your Chairman asked me to investigate the following items. First, the irrigation possibilities on the Navajo Reservation under the Shiprock and South San Juan projects. The second item I was asked to investigate was the construction and operation and maintenance cost of these various irrigation projects. Third, I was asked to study also the proposed San Juan-

Chama diversion. The fourth item was to investigate the adequacy of the water supplies. Now, taking these four items up in the order they were mentioned we will first discuss the irrigation possibilities on the Shiprock and South San Juan Projects.

Under the Shiprock Project on a gravity system 118,000 to 122,000 acres of land could be irrigated. Now, with a 100-foot pump lift under the Shiprock Project, which would be above the main ditch, you could irrigate an additional 19,300 acres. With a 150-foot pump lift you can irrigate an additional \$ 14,200 acres. In other words, the total under the Shiprock Project, including the gravity, 150-foot pump lift, and 100-foot pump lift, there is a total irrigable acreage of 155,500.

Now, going to the South San Juan Project under 55,000 to 60,000 acres on the south San Juan Project, 18,000 acres could be irrigated on the reservation. Now, in connection with the Shiprock and South San Juan Projects there are two possibilities. First, you could build Shiprock gravity and South San Juan Project which would irrigate about 140,000 acres on the Navajo Reservation. The second possibility would be to build the Shiprock gravity and pumping project which would irrigate 155,500 acres on the reservation.

Now, going to the second Item which I was asked to investigate, the construction and operation and maintenance cost under these various projects. The Shiprock gravity project, the construction cost would be \$1050 to \$1125 per acre. The annual operation and maintenance cost under the Shiprock gravity project would about \$4.50 per acre. For the Shiprock pumping project the construction cost would be about the same as for the gravity Shiprock project. The annual operation and maintenance cost for

the 100-foot pump lift lands would be from \$9.00 to \$11.00 per acre, depending on what power would cost you. The annual operation and maintenance cost on 150-foot pump lift would be \$10.00 to \$13.00 per acre.

CHAIRMAN:

Mr. Riter, would you come up here. I stated we had a man coming and I had reference to this gentleman, Mr. Riter, who has just stepped up on the platform.

MR. PERSON:

Now, going to the South San Juan, assuming that we have 55,000 to 60,000 acre project the construction cost would be from \$1500 to \$1700 per acre.

CHAIRMAN:

Will you tell the Council just about where that project lies?

MR. PERSON:

The South San Juan Project lies south and east of the Shiprock Project.

CHAIRMAN:

Would that be directly south of the town of Farmington? Is that pretty much off the reservation?

MR. PERSON:

Yes, most of the project is off, there is about 18,000 or 20,000 acres on the reservation.

Now, going to the third ~~item~~ Item, the study of the San Juan-Chama diversion. The data available indicates that a San Juan-Chama diversion of 250,000 to 260,000 acre feet is necessary to make a feasible project.

CHAIRMAN:

Do I understand, Mr. Person, you to say that that much water could be diverted from the San Juan into the Chama project and it would still be

feasible to have water to irrigate this 155,000 acres?

MR. PERSON:

No, I will come to that. In fact, this 250,000 acre feet is very close to the maximum that it would be possible to divert.

Now, in connection with the South San Juan-Chama diversion, we believe that additional studies and investigation are necessary to establish the feasibility of this diversion.

Now, going to the fourth item I was asked to study, the water supply. First, there is sufficient water supply in the San Juan River above the Navajo reservoir to irrigate the Shiprock gravity project, and in addition to that a 55,000 to 60,000 acre South San Juan project. If those two projects were built, of course, they would irrigate a total of 110,000 acres on the Navajo Reservation. Second, there would be sufficient water supply in the San Juan River above Navajo to irrigate the Shiprock gravity and pumping projects and irrigate a reduced South San Juan Project. I might say here that I don't personally believe the Shiprock pumping lands have sufficient ability to produce to pay the operation and maintenance costs that is for the pump plant. Third, the water supply in the San Juan River is sufficient to irrigate the Shiprock gravity project and provide 250,000 acresfoot/diversion. Now, the fourth possibility in connection with the water supply, there would be sufficient water to irrigate the Shiprock gravity project and to provide for a reduced San Juan-Chama diversion and a reduced South San Juan Project.

Now, with any of these combinations, that is the Shiprock gravity and the large South San Juan with the Shiprock gravity and the San Juan-Chama diversion there would have been water shortages in three years for

the period from 1930 to 1949. This completes the items I was asked to report on. My written report is much more detailed, but I think I have covered the important points.

Now, before I stop I would like to express my appreciation to the Bureau of Indian Affairs and the Bureau of Reclamation for making everything that they had available to me. I might say the Bureau of Indian Affairs report on the Shiprock Project completely covers the irrigation potentialities on that project.

JUSTIN SHIRLEY:

Mr. Chairman and Members of the Council. I wanted to ask a question during the talk of Mr. Person but I am appreciative that I still have that chance. That is as far as the supply of water is concerned he gave us an estimate of the water, the acre feet that would go to the Chama and the supply sufficient under the gravity flow and additional pumping to carry on so much irrigation work. How do you estimate the amount of water since we know the conditions change and we have drouth seasons every once in a while? Supposing you are giving your estimate on a certain year that we have a sufficient supply. You gave us the average, no doubt. What is to prevent any drouth coming over here to make the supply of water inadequate?

MR. PERSON:

From the records available for the period of study from 1930 to 1949 that included three very dry years, 1934, 1946 and 1947. Your shortage, your maximum shortage during this period would have been about 33% to 35% depending on the size of the Navajo reservoir. We feel that this is a tolerable shortage and would still make a good project. The suggestion was made that I discuss what I meant by tolerable shortage. There are

very few irrigation projects built that have a 100% water supply for every year. Now I am not saying a 30% shortage of supply would mean a reduction in your production of necessarily 30% because when you have a short supply you would use the water more carefully.

CHAIRMAN:

Mr. Riter, will you introduce your friends to the Council.

MR. RITER:

We have Mr. Mutz here, Area Engineer, Albuquerque, New Mexico, who is studying the San Juan-Chama diversion. The next man is Mr. Erickson. He is the New Mexico Engineer for the Interstate Stream Commission. We have Mr. Crabtree, ~~whose~~ whose office is at Durango. He is an engineer making studies for the South San Juan Project. Mr. Fred Wilson of Albuquerque. Mr. Wilson is attorney for the New Mexico Interstate Stream Commission. I am also working with Mr. Keesee, engineer of the Bureau of Indian Affairs.

HOWARD GORMAN:

Mr. Chairman. Mr. Person, have you explored the intermountain Chama diversion? How does the cost per acre foot compare for the Shiprock and the potential irrigable lands in New Mexico on the other side of the mountain?

MR. PERSON:

I might say this, the cost per acre foot to get water over there is going to be more than the cost per acre foot of water on land on this side. But I don't think we have enough data to get the final figure on it.

YELLOWMAN:

You stated that the water of the San Juan is at the present time sufficient to irrigate the gravity flow and in addition to that the pumping

could be established and you would still have enough water, but from what we observe daily, those of us who come from that area, there is insufficient water at the present time. You are talking about the South San Juan Project and the Shiprock Project. I doubt if there is any water in the river after it gets past the Carrizo Mountains. With a condition like that supposing it gets dried up, do you still think we would have enough water?

MR. PERSON:

Maybe I left a wrong impression when I mentioned gravity. There are no more pure gravity projects. All future projects are dependent on storage. That storage is going to have to be sufficient to carry over from high flow years to low flow years.

YELLOWMAN:

Supposing this diversion has been made by the Navajos toward the reservation and also the intermountain project was made, what percent can it be said that is the responsibility of the Navajos and what percentage off the reservation?

MR. PERSON:

Say you get 250,000 acre foot diversion and you would irrigate 120,000 acre project. With 250,000 going over the mountain there you would be diverting about 650,000 acre feet.

MESCALETO NELSON:

It is stated that the irrigation projects originates off the reservation. Would that mean that the people now off the reservation like myself and others would get some beneficial use from the irrigation project?

MR. PERSON:

I think it could be set up that was if he could not irrigate it from the proposed project.

MESCALETO NELSON:

I did not have reference to off the reservation area where the Navajo now live. I just mean that portion of the off reservation land just a little bit away from the proposed storage.

MR. PERSON:

Will it be on the proposed ditch? I think that could be set up that way.

CHAIRMAN:

Do you mean to ask, that irrigation when it is completed and flowing from that project would it be used by the Navajos in the immediate vicinity of this completed irrigation storage?

MESCALETO NELSON:

Yes, I have been asking about that. That is what is intended, to have as many people as can be reached by that water to be benefitted by the use of it.

CHAIRMAN:

We will have ten minutes recess now.

(Recess 10:00 a.m. to 10:30 a.m., Aug. 22, 1951)

CHAIRMAN:

We will go on with the business of the Council now, and I would like to introduce to the Council and the audience the Governor of Arizona.

(Applause.)

GOVERNOR PYLE:

Thank you very much, Mr. Ahkeah. Thanks to you Members of the Tribal Council for the courtesy of your reception, and a special greeting to those of you who are spectators this morning.

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meeting

August 22, 1951 - 1:45 p.m.

CHAIRMAN:

We have a quorum of the Council members so the meeting will now come to order. (45 members present). We have Mr. Persons here and he will make his report and I wonder if any of the Council members wish to ask him questions. If not, I will call ^{another} ~~on~~/~~the~~ gentlemen.

HOWARD GORMAN:

Most of the delegates have not seen Mr. Person's report. If we had seen Mr. Person's report, I think we would have been in a position to ask him some questions. But what the Council and the people are ~~for~~ principally interested in right now is to hear about the advisability, the differences in the checking over of the records of the Reclamation Service and other government departments. We would like to know what the difference is. Whether there is any difference at all. That is what we are mostly interested in. If we had read his report we would probably know the difference, nevertheless in the simplest form of wording we would like to hear what differences he has found in the whole setup. This transmountain diversion and also the potential development of agricultural land under this gravity flow on the Shiprock area. If we could get this kind of a report wherein you have found the differences between the Reclamation Service when they entered into this discussion again we will know exactly what you are talking about probably. The spring meeting of the tribal council when the Reclamation Service presented their arguments and their figures in connection with this development of this project we found that it was highly technical. A lot of things we don't understand about it, but we know what we want if we could only hear the differences that you have found.

MR. PERSONS:

In connection with this question, the difference between our report and the Bureau of Reclamation to take a gravity area of the Shiprock Project, there

isn't a very serious difference. There is a very minor difference. In regard to the acreage irrigated under the South San Juan, our findings are in agreement with the Bureau of Reclamation. In regard to the San Juan Transmountain diversion, such a diversion can be made. Additional studies, ^{need to be} submitted to establish the feasibility of that transmountain ~~diversion~~ diversion. I think our findings in regard to the water supply are in agreement, exactly in agreement with the Technical Coordinating Committee in regard to the water supply. I have tried now to hit on most of the points where there might have been disagreement. I wonder if that answers Mr. Gorman's question.

HOWARD GORMAN:

Mr. Persons, when you say that your figures in acreage and the possibilities of the diversion and also the storage of the amount of water in the dam coincide with the figures of the Reclamation Service, how are we going to determine where we are going to make a compromise? That is what we wanted a survey made for. Where shall we start out, how far shall we go on this thing? With all of your figures and everything else coinciding with the Reclamation Service's, then it looks that there isn't anything we can do but to fall in line with the other side.

MR. PERSONS:

There are a number of possibilities. That is, of course, you could build the Shiprock gravity project and the South San Juan Project. There is enough water out there and you could use all the water supply. You could take it all. There is another possibility. You could have the South San Juan-Chama diversion and we could build the Shiprock gravity project and permit the South San Juan-Chama diversion 260,000 acre feet.

CHAIRMAN:

You are referring to the 120,000 acre feet which this gravity flow will touch?

MR. PERSONS:

I think that decision can't be made. That is a policy decision that this Council needs to make. I think that is a policy question that your engineer could not decide. What do you want to do? Do you want to build the Shiprock gravity project? There is going to need to be some compromise if we are going to build anything. Mr. Gorman, have we answered your question?

CHAIRMAN:

We are more in the dark when it comes to the subject of what to do. What is to be decided? The program as presented to us, we more or less understand what these people want to have us do. What we put you in this job for was to find out what is the most feasible thing we can do as Navajos.

PETER YAZZA:

What we don't understand and what we would like to know is if the figures offered by these men who are sitting in the back is different from the figures that you have arrived at. That is what we want to know. Do we have an advantage or don't we?

MR. PERSONS:

I don't think you have a particular advantage. The figures are very close and so close that there isn't a serious difference.

MR. YELLOWMAN:

When you build this diversion dam, it is up above the reservation to the Navajos use area. In between the diversion of the Navajos use area, there are several white ranchers, farmers living there. What happens to the Navajos and the white people who are in there when it comes to the use of this water?

MR. PERSONS: I think they could be included in the project.

SAM GORMAN:

Last spring when we had the general council meeting, these men here presented the proposed project. At that time they pointed out the area which were to be subjugated and I felt at the time that it was very clear. It was clear to me as if I had been over the area. It seems we are going over the same ground again. The way I understand this thing, all the tributaries into this San Juan River would be collected in the reservoir at the confluence of these streams. That is the way I understand it so that this supply of water will furnish the irrigation water for the hundred thousand acres or so of land. If we don't go ahead and push this program, this project may come to a standstill, the way we are doing. Someone is going to put a dam on one of these tributaries and divert it over the mountains to the otherside if we don't push this. Last spring I made the same statement that the quicker we go ahead with this project, the less chance there is of anybody taking any of it over the mountain and away from us.

MR. PERSONS:

I think that is right.

SAM GORMAN:

For these reasons I still say this project should be pushed forward as far as possible. We want the water now. It has been mentioned that the cost per acre to be expended is so much. What I am interested in is to get the benefit from these irrigation waters as fast as possible. If there is one fruit tree supported by this water and it bears fruit, it will pay for itself. That is all I want, if it makes a living for us.

ANNA WAUNDEKA:

The question I have brought up previously is how much water belongs to us? How much of the water that is available belongs to us? Is there a dividing line in the center of the stream -- a one-half, one-half proposition? How much water can we get?

MR. PERSONS:

I would refer that question to the attorneys. It is a legal question.

ANNA WAUNDEKA:

We have been presented with this question of diverting some of this water over the mountains somewhere else. It has caused and created confusion in our minds, this began when this question of diverting this water came up. We understand that all along. It was mentioned many years before the people mentioned that it could be done. That water can be diverted over the mountains to rehabilitate the Navajos. Isn't this part of the rehabilitation? Wouldn't this water rehabilitate the Navajos?

MR. PERSONS:

Absolutely. There is no question about it. If there was sufficient water so you could get your project and could have the transmountain diversion, then there wouldn't be this serious argument. I think you can get the gravity project, but if the Navajos would insist on having both projects, there wouldn't be enough water left to have a transmountain diversion.

ANNA WAUNDEKA:

I do not know of any extra water which flows into this San Juan River. Everyone uses water, there is a definite need for that. This project at Shiprock can be completed and they will utilize so much water. If possible they can put a diversion or some kind of a pumping system around to Kayenta on the

northwestern part of the reservation and they will be glad to have it. They can be rehabilitated in that area then the water can go down into the Parker area where a lot of our Navajos are using this water. I do not see anywhere where there is extra stream of water that can be diverted elsewhere. I am thoroughly opposed to any diversion. That is the reason I am bringing this up at this time. I am interested in more acreage of land.

MR. PERSONS:

I think you could insist that you could cover 118,000 to 122,000 acres by gravity and you could cover additional acreage, about 33,000 acres by pumping. The operations and maintenance costs on these for pumping, I think, would be more than the ability of the land to pay. I think if that happened, we would still be arguing about a project two or three years from now and there would be no project. Where if you decide to set a reasonable gravity ~~project~~ project, there might be a chance to go ahead.

ANNA WAUNEKS:

I want to state again that while some of us do not live in that area, we want to do everything we can to get the project going. That is our main purpose here. This gravity flow should be done immediately. The pumping due to its cost might be prohibitive, but we still do not wish to let ~~it~~ go of any of the water to be diverted over the mountain. The land that will be under this Navajo dam would be subjugated and that is what we want so that we can have immediate results so the Navajos can be rehabilitated from this source.

SAM GORMAN:

Water is worth more than gold to me. We do not wish to waste one drop of water, since the need is so great. We will never see this water again if it

Note | goes over the mountain. It will support some other people than us. That is the reason I still take this position. That is my stand that the gravity flow project be completed and it will eventually go into being used by this 33,000 additional acreage. This is my position because when we give up any of this water, however small or large, we are not going to see it again and no one will get any ~~benefit~~ benefit from it whatsoever. I wish to point out what the tribal attorney, Mr. Littell, stated here the other day. He said that the boundaries of the Navajo land established from years back on the west by the Grand scan Peaks and Mt. Taylor on the south where it is giving us a great maximum on the land which the Navajos had use rights on. All the water that is collected from within these boundaries belong to the Navajos. He is making a claim on the basis that the boundary is Navajo boundary and that any flow of water within these areas the Navajos have first rights to it. That is the reason I say there is no reason to give away any part of it because we need it here. |

WILLIS MARTIN:

This subject has been under discussion for many days. Everyone who was interested and had ideas on the subject, this is the first time that it has been presented to the Navajo Tribe. That is why we are having to debate on this subject. Since this program has been presented to the Navajos, we have to take active part in the discussions as to what to do with this water. If it was left up to the white people to thresh this thing out, they will do it in their own way and we will never have a voice in it whatsoever. Because we have a voice in what to do with this water, I do not agree with this opinion that we should deny the advancement of this project not to allow somebody else to use some of the water. Because we did not agree as to the figures we hired

Mr. Persons to make a survey for us to investigate the possibilities and to tell us just about what is the most feasible. Since the ~~last~~ last tribal council meeting when this subject was presented by the Reclamation Service and the Indian Service and we decided to hire an investigator for the tribe, I was of the same opinion as Mr. Howard Gorman. We had hoped that the acreage to be recovered would be greater, that there must be some way to work out the larger acreage, but now it does not seem that that is possible. We did not get anymore help under our investigation than what has already been proposed so it seems like we are going to have to fall in line with the investigations made by these other services. I believe we should have the figures as to the findings and the differences which were made by these Services. If we could get those figures we will understand more as to what we want to do. Now this dam and the diversion by the same token that has been made that some of these areas, tributaries into this diversion project are outside the Navajo use area. For that same reason I would say that we cannot deny other people the use of water running off from outside the reservation into the reservation. We cannot restrict ourselves in getting these projects started by saying that we do not wish other people to have water diverted to their lands.

CHAIRMAN:

I told the Council to ask Mr. Persons any questions they wished. It looks like they want to settle the question without hearing from him. We want to hear from the other parties also. They have something to tell us.

WILLIS MARTIN:

Does that mean that these Services that gave their ideas on this project will have to go over the same thing again?

SAM GORMAN:

I would like to ask the attorney to explain the laws as to the use of these streams. What determines who can use these waters?

CHAIRMAN:

Any question as to the legal questions pertaining to the ~~San~~ waters, I think that comes later. We have the lawyers here, too. I would like to hear these other people on the project and the diversion. There is a lot we haven't heard. I think we should hear the other parties, too. I think we are going to ask questions of all the Services.

ROGER DAVIS:

Here is the thing, I think we got ahead of ourselves. Howard Gorman started out pretty good, what is the ~~gr~~ difference between gravity flow and pumping. He said there was very little difference in the gravity flow and the pumping flow as compared to the other figures. That is what we wanted to find out. The Chairman asked us if there were any more questions of Mr. Persons, instead of that we got into a discussion and debate and got ahead of ourselves.

CHAIRMAN:

Do you recommend this 121,000 acres? Do you recommend that we give the other party the acre feet over to the transmountain diversion? Would you recommend the 122,000 acre feet?

MR. PERSONS:

I think you should have a gravity project.

CHAIRMAN:

Does that take care of the water available?

MR. PERSONS: I would recommend that the Shiprock ~~project~~ be built as a gravity project. That would be from 118,000 to 120,000 acre feet. In order to build that project, you would have to give up some water.

CHAIRMAN:

In other words we would have to give up some water.

MR. PERSONS:

Yes.

CHAIRMAN:

As the two speakers say, if we are going to use all the water of the river, in that case we will never have a project. On the other hand if we recommended it to the Congress, I don't think that Congress would give out the money.

Right there is the question.

ROGER DAVIS:

The expense is greater than the value of the land.

JUSTIN SHIRLEY:

I want to ask again on one possibility which we requested Mr. Persons to look into. That was is there a place above this Navajo dam where there can be another diversion for the higher levels so that more acreage can be covered under gravity flow? After the diversion, can you build a canal higher than what has been presented already and had been recommended under this proposed project. Is there a higher line that can be put in?

MR. PERSONS:

I think it could be raised. But I think the location proposed is the most economical location.

CHEE DEE BENALLY:

Last spring we were told exactly where this canal will run after the diversion. The question at that time was whether or not the drop in this flow the lands where it will be used is too great. It appeared at that time and I stated so that the land which has been laid out under this project were lands

which were not very fertile. There were additional lands of good grade which should have been included in the acreages to be supplied. I happen to be from that same area where this canal will run. I know the lay of the land very well. That is why I say there should have been additional lands included and supplied by this canal. That was the question when it was proposed that we ~~high~~ hire Mr. Persons to look into this for us. I still believe that if they run this canal at a higher level we could get out from ~~the~~ this additional good farming ~~lands~~ lands.

MR. PERSONS:

The location of the canal has been raised from the original location. That is why there is increased acreage. I think you had 114,000 in the earlier report and it now is increased to 120,000 because of the raise of the canal.

CHEE DEE BENALLY:

I was not aware that there was this much work done. That is the reason I asked my question. Outside the reservation, I understand there is a project proposed below Huerfano. In that territory it is checkerboarded like chicken wire. How will we determine ~~what~~ there who has the rights and who will benefit the most when this project is put underway for that territory.

MR. PERSONS:

Is that a project outside the reservation? I haven't looked into any irrigation lands outside the reservation.

CHEE DEE BENALLY:

I understand now since the Chairman explained it that when water is diverted into this checkerboarded area that the people who own lands would all benefit, whether Navajos or non-Navajos.

MR. PERSONS:

I think that would be true. Yes.

CHEE DEE BENALLY:

With this understanding, then I believe we should go ahead with this diversion into the Navajo country so that we can get immediate use from this water. This diversion over the mountain can wait until we see if there is actually enough water for the acreage that has been presented by the survey.

BILLY BECENTI:

I believe everyone has asked all the questions of Mr. Persons and we are satisfied for the immediate time on that basis and I believe we should give these men who are waiting on the platform an opportunity to tell us what their opinions are in regard to this water.

CHAIRMAN: We will have a ten-minute recess and we will call on them later.

CHAIRMAN:

I think we can go on with the business now. I will now call on Mr. Riter for his statement. He is from Denver, Colorado.

MR. RITER:

Mr. Chairman, Members of the Tribal Council, Ladies and Gentlemen: At the May meeting of the Tribal Council, I was permitted to give to you a report of the activities of the Technical Coordinating Committee, which was organized at the request of the Secretary of the Interior. You will recall that this Committee was organized to study projects for the use of the waters of the San Juan River in New Mexico. The Committee has continued its activities since the May meeting. Late in May we rode over the lands to be irrigated on the Shiprock

Project. I was greatly impressed by the need for irrigation in that area. To assist in determining the size of the Shiprock Project, we made studies of the costs of different sizes of projects. You will recall ~~a~~ that at the May meeting of the Tribal Council, we presented information on a project of 114,000 acres. Since that time we have studied a project of 100,000 acres. We have also studied a project of 122,000 acres. Our studies show that the cost of a project of 100,000 acres would be about ~~\$1,060~~ \$1,060 to \$1,100 per acre. Our studies show that the next 14,000 acres will cost between \$900 and \$1,500 per acre. Our studies show also that the 8,000 acres above the project of 14,000 acres~~y~~ will cost about \$1,800 per acre. Mr. Persons told you that 122,000 acres represents about the largest gravity project that can be available. We agree that that is true, but we also realize that the cost will increase as the acreage is increased. We wish to bring to the Tribal Council the information on costs so that you can consider these factors when you decide how large of a project you wish to recommend to Congress. Since the May meeting of the Tribal Council, we also made some more studies for the San Juan-Chama project. Our studies show that more than one half of the cost of this project as previously presented to you would be incurred in order to develop power. Of the cost of \$225,000,000 of a large project, we find that \$123,000,000 represents the cost of power features. For the smaller project we find that of a total cost of \$198,000,000, \$121,000,000 represents the cost of power features. So that if we subtract the power costs the remaining costs of the project to ^{store}~~install~~ and divert the waters would be from \$77,000,000 to \$102,000,000 depending on the size of the project that is built. These costs represent the cost of the reservoirs, the tunnels and the canals necessary to bring the water into the

Chama and to build a reservoir in the Chama. In addition to these costs, there will need to be added the cost of a pipe line or reservoirs or canals ~~into~~ to put the water to use. We have not determined how much that is going to cost at the present moment. Studies have been continued and are under way at the present time to determine where and how much the water will be used in the Rio Grande Basin. While the studies have not been completed, we have found that there are demands for water in the Rio Grande Basin which are greater than any size of a project which we have studied so far. That completed the work that the Technical Coordinating Committee has performed, however, the Secretary of the Interior has received a report on the Colorado River storage project which was explained to you by Mr. Cahoon. You will recall that this project provides power revenues to assist the payment of projects for the use of the waters of the Colorado River and its tributaries. While the recommendations of the Secretary's report is that the Shiprock Project be constructed and that it receive aid from the power revenues of the Colorado River project, however, the report does not define the size of the Shiprock project. It does not say how big it should be. There are five states which are primarily interested in the power revenues from this project. And in commenting on the report, they reminded the Secretary that the size of the Shiprock Project is not known. They also stated that before they could agree to construct the Shiprock Project they would like to know how big it is so they could determine the effect of that project on their own projects in their own states. Before the Secretary of the Interior can move further on his report, he would like to know how big the Shiprock Project should be. So, I am very hopeful that a decision can be made and I wish to help if I can in helping you to make that decision.

I thank you for the opportunity of appearing before this Council meeting and reporting to you the work ~~of~~ the Technical Coordinating Committee has done since your May meeting.

CHAIRMAN:

Are there any more questions?

ADOLPH MALONEY:

Name the five states interested.

MR. RITER:

I said there were five states that were interested, there are really seven. Arizona, Colorado, New Mexico, Utah and Wyoming. California and Nevada are also interested so there are really interested. Five are directly interested and two indirectly.

CHAIRMAN:

What would it cost per acre foot to take the water over the mountain?

MR. RITER:

We find this that it will cost \$77,000,000 to store and divert between 150,000 and 178,000 acre feet. I will have to figure that out per acre foot. ~~XXX~~ That would be about \$500 per acre foot.

HOWARD GORMAN:

Have you after you made the survey of the Shiprock Project, have you at any time revealed your findings to these fellows down in the Rio Grande valley? Have you already done that?

MR. RITER:

No, Sir. This is the first time our report has been made available to anybody. You understand that Mr. Mutz is on the Committee. He is the engineer that is studying the transmountain diversion.

HOWARD GORMAN:

This 122,000 acres to be irrigated by gravity flow from in the Shiprock area, if this information was revealed to the Rio Grande people they probably would maybe object to it. But we are glad to get the information that we have received here today. It gives us a little more chance to think about it and I think some kind of a compromise can be reached undoubtedly. After you have decided all that then comes the question of power. The five states being interested in power directly and two states, California and Nevada indirectly. We know they are talking to us now as to what decision we should make. They are suggesting the decision that we should make. And after we have threshed out everything we appreciate Mr. Riter that you have stated that you want to help us with it. We appreciate that. I think now we are talking "tury/ky" and it will lead to some better understanding, I think. At the beginning we thought that everybody was trying to get our water and take it away from us.

CHAIRMAN:

According to my opinion we know the figures and the costs per acre. But the question is whether or not we can get the money. Since we are the only ones that have the figures now, I think this project is coming around in our favor. The breakdown on per acre foot has now been analyzed and we are getting a clear picture of the cost. The other side of the transmountain diversion, they seem to be obscured, but we don't know how much per acre foot it will cost to develop an acre. At this moment we are rather in the dark as to what we should say about the transmountain diversion.

MR. RITER:

I would suggest that the Navajos turn their interests to the Shiprock project. Fred Wilson and Mr. Mutz are in the audience and they will look after the transmountain diversion. The Tribal Council is interested in the development of all the water in the area that they can use in New Mexico. I would like to say this water is to use ~~;-~~ unused water does not do anybody any good. I would suggest that the Navajo Council size up the situation and decide in your own minds what you want and what you think you can sell to the Congress and get favorable action ^{on} ~~at~~ considering all of the facts involved.

HOWARD GORMAN:

I would like to ask Mr. Littell to say a few words on this. He has been following pretty closely on this matter.

MR. LITTELL:

Yes, I agree with Howard Gorman that we are down to the point of talking turkey, but I think that the turkey is a little bit raw yet. As the Chairman stated we now know the very last detail about the cost of any project which would be designed to serve the Navajos, but we do not know the equivalent information on their proposed diversion project. In other words, they have looked at every tooth in the mouth of ~~your~~ the horse you propose to ^{trade} ~~train~~, but they won't let us see the teeth of the horse they propose to ^{trade} ~~train~~. I mean ~~by that and~~ ^A I don't mean to be ^{contentious} ~~contemptuous~~ about this, but I say it is absolutely fundamental that they justify the Chama project before we even begin to talk about it. They haven't even begun to talk about it. The figures that Mr. Riter gave you were available at the ^{Adviser} ~~Tribal Council meeting~~ day before yesterday, we reviewed them at a meeting. He estimates \$225,000,000 cost for one diversion

and \$198,000,000 for another, but he also admits that they have not figured their ditches and irrigation and according to the statement they have not figured distribution to industrial or municipal areas. Let's get back to your position fundamentals and see what ~~their presentation~~ is. Let's see what your legal position is. Your bare, naked legal position entitles you to the prior rights as users of this water to the fullest extent clearly of what can be fixed by gravity flow. That is my opinion and that is the opinion of Mr. Humpherys who is one of the leading water rights attorneys in the West and he is the attorney for the Department of the Interior. Maybe it also entitles you to what you can get by pumping. There is pumping on other Indian reservations. But the law ^{on the last point} is not, I must say, wholly clear. Your engineering advisers, Mr. Persons and Mr. Keessee agree that by the first method you can get 118,000 to 122,000 acres fixed on the Navajo reservation by gravity flow, -The 122,000 if the canal is raised by about 20 feet ^{which} as we were talking about, a higher level. If you insisted on pumping 100 to 150 feet lift, you raise the acreage to ~~1550~~ 155,000 according to Mr. Keessee and Mr. Persons. Then under the pumping of this South San Juan project included, you would pick up another 20,000 acres on the reservation, making it about 175,000 acres. This diversion could serve ably and fully your Navajo's Reservation project and the South San Juan project, and absorb all the water that is in it without going across the divide. As it has been pointed out here the cost of pumping so so high they you would have little chance of getting such a project through Congress to include the pumping. Without agreeing that 122,000 acres on the reservation by gravity flow might possibly be considered by the Tribal Council, the question is squarely posted as between the South San Juan and the San Juan-Chama project as to which one would lay legitimate claim to any surplus waters above that, disregarding

smaller users for the purpose of this discussion, because there are some of them, too, I understand the issue was squarely ^{posed} ~~presented~~ between those two projects and of the two of them, the South San Juan project has made it ^a very clear and a convincing case. [¶] Those in favor of the San Juan-Chama have not yet completed their case. They started out with several possibilities, diversion figures ranging from 300,000 acre feet [¶] to 150,000 feet, but we now know by our engineer and by your engineer, Mr. Keese that they ^N can't exceed 250,000 acre feet at the best according to engineering difficulties, according to engineering difficulties, they could not get more than 250,000 acre feet. [¶] Why am I being so particular about these details? It is very clear that they must be committed [¶] Clearly and unequivocally as to what they intend to take of this water and how much they propose to claim before there is any chance of reconciliation with this project. When you know those facts, you can then determine ^{whether} you have to make any compromise or not and how deep it is and how much protection you should have in making that compromise. I know of two Indian tribes in California who made agreements like this ^{for} of their water rights, ^{exactly} not like this, but agreements to divert water and the needs of the white men grew and grew until this year the Indian farmers fields are dry and they were advised ^(by the Bureau of Indian Affairs) not to plant their crops. I don't think that can happen here, but we are going to see that it does not happen here. In the Washington conference on this same subject, Mr. Grey Valentine, Mr. Gorman and Mr. Ahkeah will remember that we got the decision, ~~informally~~ in the record, that there would be no new irrigable lands if the San Juan-Chama project went in. We got that limitation ~~in in~~ ^{into Secretary's transcript of} at least the oral record. I think that this discussion has been very helpful and very educational, but there is nothing to

commit yourselves on and I advise you not to commit yourselves on anything
until we have all the information before us. You are in more of a hurry than
they are. You want this water desperately and now. It could be one of the
biggest factors here in the rehabilitation of the Navajos. You may well wish
to compromise for the sake of getting the political support of getting this
through Congress, but you certainly don't have *the figures on the San Juan Chama*
(figure) or project.
~~on Mr. Keese's estimate of cost.~~ I am sure that we are very grateful for
the people who have visited us here, but I still say we will have to wait a
little longer until the picture is complete. When the Navajos have all the
facts, I have found them able to make decisions in a clearcut and decisive
manner.

CHAIRMAN:

Since we don't have all the facts in this matter, unless someone ^{on} of the
Council wish^t to ask anymore questions, I think we should go ^{with} on ^{the} agenda.

HOWARD GORMAN:

I would like to ask the Chair to let Mr. Humpherys speak, and see what
he may be able to give us in the way of valuable information since he is the
"water lawyer" in the western part of the United States. We have very high
regard ^{for} of his opinions so we would like to have him say a few words. We could
see the other side. We will let those facts come out later on.

MR. HUMPHERYS:

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MR. HUMPHERYS:

So far as the statement of Mr. Littell's is concerned, I think that in the past I have said that the maximum rights of the Navajos to the use of the waters of the San Juan river might be requested to irrigate the diversion project. The mere fact that one has the naked, legal right to something, as I tried to point out in Washington, does not mean that he will be successful in obtaining that right one hundred per cent. There are reasons why one may not always establish a maximum or naked, legal right. Rights to the use of the water or any other legal right. They are established sometimes on the basis of human ~~facts~~ factors, sociological problems, political problems and numerous other factors which enter into the whole picture, thus making a great many factors pulling one way and another and the clerks have to maximize those before they announce their decision.

I may add one additional thing. Let me put it this way, I think that fundamentally, there is no serious difference of view as to what the naked, legal right to the use of the waters of the San Juan is, as between Mr. Littell and I, and others who may express views from time to time about the legal right. Sometimes one uses highly technical expressions to emphasize a given viewpoint, which for the moment he wishes to express. The expression "naked, legal right" is, I think, such a method of argument and discussion among lawyers. I think Mr. Littell used it in that sense and I think that I understand why he did. I think there is no disagreement. I didn't understand him at all to say that he was not advising you to exert that right. He was telling you what to guard yourselves against and before you back away from some offer or some method whereby water might be eventually lost, you ask

the other parties to give you the information on which you could make a decision as to a compromise or as to whether you should place your points on an equitable basis or even if you might so desire or be advised on this naked, legal right, the highest possible technical ground on which it could be placed.

~~XXXXXXXXXX~~ CHAIRMAN:

Would the gentleman from Farmington, Mr. Coury, like to make a statement at this time?

MR. COURY:

This goes without saying that I am glad to be here today. I attended your meeting in May and it is with great delight ^{to} realize that the big problems confronted by the Tribal Council are being met so intelligently, and it is my hope and desire that some solution to this problem can be realized at an early date in order that the Secretary of the Department of the Interior may no longer hold up the Upper Colorado River Storage project. > We, at Farmington, feel that the magnitude of the Shiprock Project should be of such size as may be determined by the Tribal Council with the Technical Coordinating Committee's findings made to our disposal and we^l also feel that in addition to the Shiprock Project that the South San Juan Project, which borders the Shiprock Project to the east, should be a criteria in the amount of new land that is to be placed under irrigation in the San Juan Basin. We also feel that the Shiprock Project and the ^{South} San Juan Project and the Hammond Project should be considered as one unit and when the magnitude of these projects is ultimately decided ^{their} there needs should be taken care of first. And if there

is any surplus water left, then that water can be discussed for the trans-
mountain diversion project. We are just as anxious as the Navajo people are
for the immediate construction of the Navajo reservoir, and we are told that the
construction cannot begin until it is authorized by Congress, and Congress may
not act on the report until it is approved by the Secretary. Under this premise,
we feel that the Tribal Council should give all serious and broad consideration
in letting the Secretary know their decision as to the Shiprock Project.

Mr. Chairman, Members of the Tribal Council, again I wish to thank you for the time you have given to me and you can depend on us in Farmington for all cooperation. Thank you.

CHAIRMAN:

Judge Wilson, do you have something to say?

JUDGE WILSON:

I feel that it would be an imposition on you for me to take much time. But in coming before you, upon the invitation of your President, I hope that I do not come as an enemy seeking to steel your water or to do anything detrimental to the Navajo Tribe. I say that, Mr. Gorman, on account of your statement. While it is true that I have represented the State of New Mexico for a number of years & in reference to water matters pertaining to the Colorado River, which includes the San Juan and its tributaries, never during that time have I felt in anyway that I was acting in any capacity that would interfere in anyway with the rights of the Indians to the use of this water. You have heard it mentioned that a compact was negotiated with Colorado,
Wyoming, Utah, and Arizona and us in reference to use of the San Juan River.

Compact

It has been said that the Navajo Council and the Navajo people were not consulted at all times during those negotiations and they had no voice in the determination that was made by the terms of that compact. It may be true that you were not taken into the confidence of the people as you should have been and I feel now perhaps that that is true. However, your engineers, your representatives, were all participants in those meetings and figures were used and facts were considered which we thought and which I now believe your rights as well as any other rights of any other user in the State of New Mexico.

At the risk of taking too much time, I would like to tell you briefly why that compact was necessary and why it is important to us as well as everybody in the State of New Mexico.

Back in 1946, the Bureau of Reclamation made a study which took them years to formulate, of the waters of the Colorado River, including the San Juan and its tributaries, that could be used in the upper states and the five upper states of the Colorado River Basin. The Secretary notified all these states that unless the states of the Upper Basin allocated the water among them that there could be no project built in New Mexico, Colorado, Arizona, Utah and Wyoming, and until we made that allocation we could make no further use of the waters, because we can't use them without the big projects which the government constructed. As many of you know, New Mexico, including you cannot use any of that water unless it comes from the San Juan River and its tributaries the main stream of the Colorado River running west. So the question was how much of the San Juan River water could New Mexico persuade Colorado to let come across the line so that it could be used in the State of New Mexico. As a

result of that compact, Colorado solemnly agreed that they would let come into the State of New Mexico ~~two-thirds~~ two-thirds approximately of the entire water supply of the San Juan River and its tributaries. And that is where this 800,000 acre feet of water came from. That is the amount Colorado agreed to turn to New Mexico for use in New Mexico. And had it not been for that the only water New Mexico could claim was the water that normally runs down the ~~stream~~ stream and you could not use much of that unless big projects or reservoirs were constructed. > So, now we come down to the problem which you gentlemen are called upon to consider;— how is that 800,000 acre feet of water to be used inside the boundary of the State of New Mexico.² I am not going to argue with Mr. Littell or Mr. Humpherys as to what your legal rights are as to the use of this water. I am going to assume, for the sake of an argument, that you have the right to use all of it, if you can. You could go to Uncle Sam and say build this big Navajo reservoir here and we want this to be on our lands. You will find Congress asking you what kind of land are you going to put it on, how much per acre will it cost, and there is a limit beyond which Uncle Sam will not go. And that is the limit, to which you must determine. Your engineers, and by that I mean the Indian Service Engineer and Mr. Persons whom you employed, all of them tell you that you can irrigate from 100,000 to 122,000 acres of land by gravity and that when you try to irrigate more than that, the cost will be so high that they are afraid Congress may not put up the money for you to build anymore projects. If that is true, should you stop with a gravity project or should you try to get Congress to appropriate money \$15,000 to \$18,000 to go into a pumping project.² That is the question you are confronted with. It is a question of policy. But it seems to be the opinion of the engineers that you might be wise to confine yourselves to the

number of acres that can be irrigated by gravity and ~~how~~ out of that number of acres be sure that you will be able to make a living on it. That is the way to prepare the size of the project that you should ask Congress for money for.

There are just two more points and I am through. First, I want to ask you if you think it would be fair to you or to me for the United States Government to construct a project at the cost of in excess of one million dollars and put you there on it and say you make a living on it to help pay back some part of constructing it. Would it be fair to you, the Navajos, to be put on land, no matter how much water there is, if you can't work it and make a living for your family and make a profit on it? I think I would be unwilling to go on some lands I know of. Can you go there with your families and make a living off it? And also pay the operation and maintenance charges? I don't think I could go in there and make a living. That is a question you will also have to consider.

The other point is that when you go to Congress for money to build, don't discount the figure of 100,000 acres of land or 70,000 acres or 50,000 acres of land. None of those figures are small when you go to requesting projects. And if you should get Congress to appropriate money to furnish water for 100,000 acres of land, you would have the biggest Federal irrigation project in the State of New Mexico. To support what I just said, you take the Middle Rio Grande Project below Albuquerque from Socorro to Espanola, we have never irrigated in that project in excess of 70,000 or 80,000 acres of land in one year. So far as I know they don't want to increase it. Take the Elephant Butte area of which you are hearing so much about now. There is 70,000 or close

to 80,000 the most they have ever irrigated in one year. That is a very important project in that community. 25,000 acres in the southeastern part of the state is all they want to irrigate. It is of great value to the community and to the State of New Mexico. I thank you, Mr. Sam Ahkeah, for giving me this opportunity and in closing I want to just say one more word -- that I was impressed by the intelligent questions that were asked by members of the Council today. I think you are on the right track and I think you are going to be guided by your own good judgment and that you are coming to a fair conclusion which will be for your benefit, as well as the State of New Mexico.

CHAIRMAN:

I am sorry that I can't call on anymore of the gentlemen who are interested in the San Juan River. It is getting late and the Council will recess until 9:00 in the morning.