

L. A. Davis Res.
Asst. Gen'l Counsel
Gen'l Supt.

Navajo Agency
Window Rock, Arizona

February 14, 1957

Commissioner, Bureau of Indian Affairs

Washington 25, D. C.

Dear Sir:

Enclosed herewith are four copies of Resolution of the Advisory Committee of the Navajo Tribal Council, No. ACJ-1-57, which was adopted January 9, 1957. This resolution concerns the approval of the proposal of the Governor of New Mexico in his letter dated December 12, 1956, to the Secretary of the Interior concerning the Navajo Irrigation Project.

The enclosed resolution gives Tribal approval to the changes proposed by the New Mexico Interstate Streams Commission and State Engineer and approved by resolution of the Interstate Streams Commission November 26, 1956, to the development of the irrigable lands in the South San Juan Division of the Navajo Irrigation Project. The proposal was that the Navajo Irrigation Project should be developed as an Indian Project and that the Federally and State owned irrigable lands in the South San Juan Division be exchanged for Navajo Reservation lands on an acre per acre basis. The effect of this proposal was to: (1) reduce the size of the Navajo Project from 137,250 acres to 115,000 acres, which does not reduce the area to be developed for the Navajo Indians as proposed in the Feasibility Report of January 1955; (2) reduce the per acre construction cost by about one-third; and (3) the land to be served will be in more compact bodies, thus reducing the length of the main service canal.



L. A. Davis
at Bent Council

Because of the reduced size of this Navajo Irrigation Project, the total annual water requirements at the point of diversion has been reduced from 629, 700 acre feet to 508, 000 acre feet. However, there will be no change in the diversion requirement on a per acre basis. This reduction in diversion requirements for irrigation will make available in the Navajo Reservoir water for industrial development on and adjacent to the Navajo Reservation.

Members of the Navajo Tribal Council and their advisors have been active in the negotiations between the Navajo Tribe and the State of New Mexico. They have accepted the proposal made by the State and were present at the November 26, 1957, Interstate Streams Commission meeting which passed the resolution recognizing the Navajo claims to sufficient water to irrigate 115, 000 acres of land.

It is recommended that the Advisory Committee of the Navajo Tribal Council Resolution No. ACJ-1-57 be approved.

Sincerely yours,

A. Warren Spaulding
General Superintendent

Enclosure 897

Approved: FEB 21 1957

S/ W. WADE HEAD

Area Director

cc: Area Director (2), w/2 copies of res.
Field Solicitor, w/copy of res.
Ass't Area Director (Res.), w/copy of res.
Area Land Operations, w/copy of res.
N. Littell, w/2 signed copies of res.
Chairman, NTC, w/2 signed copies of res.
Sec-Treas., NT, w/copy of res.
Ass't General Counsel, w/copy of res.
Tribal Resources Committee, w/copy of res.
Ass't Gen'l Supt. (Resources), w/copy of res.
Agency Land Operations, w/copy of res.
Irrigation Section, w/4 copies of res.
Sub. Supts. (5), ea w/copy of res.
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Wednesday morning, December 11th, 1957:

The Chairman:

Will you please call the roll?

Carl Beyal:

Called the roll. 68 Council members present.

The Chairman:

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

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

Roger Davis:

Delivered the invocation in the Navajo tongue.

The Chairman:

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

Laurence Davis:

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

Laurence Davis: (reading)

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

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Howard Gorman:

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

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

The Chairman:

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

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Pipeline Begishe:

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

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

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

The Chairman:

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

J. Maurice McCabe: (reading)

PROPOSED RESOLUTION
OF THE NAVAJO TRIBAL COUNCIL

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

WHEREAS:

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

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

NOW THEREFORE BE IT RESOLVED THAT:

1. The proposed act authorizing the exchange of the Glen Canyon Dam site area for the McCracken Mesa area to be ceded to the Tribe and added to the Navajo Reservation by the United States be and the same hereby is ratified and approved in principle, and
2. The Chairman be and he hereby is authorized and requested to have the Bureau of Reclamation by and with the aid of the Land Use and Survey Section of the Tribe, to report to the Council at the next meeting and advise the Council as to what areas of Navajo lands may be flooded by the reservoir and what effect said flooding may have upon Navajo grazing areas.
3. The Chairman and the General Counsel of the Tribe be and they hereby are authorized to negotiate, agree upon, accept and approve any amendments in the language of this proposed act deemed incidental, necessary or advisable to accomplish the purposes of this and the above-mentioned resolutions of this Council, and to give full support to the passage of this act when the provisions have been agreed upon in final form before the appropriate committees of Congress pursuant to the authority heretofore given in the above-mentioned resolutions as amended herein.

Paul Begay:

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

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The Chairman:

We will ask Mr. Littlel to comment on that.

Norman Littlel:

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

The Chairman:

We will have a recess for ten minutes.

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

The Chairman:

We will continue with our meeting now.

Norman Littlel:

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

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

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

Howard McKinley:

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

Norman Little:

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

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

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

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

The Chairman:

Are there any other questions on this?

Ned Plummer:

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

The Chairman:

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

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Norman Littell:

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

The Chairman:

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

Norman Littell:

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

The Chairman:

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

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

Norman Littell:

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

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

Henry Taliman:

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

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

Pipeline Begishe:

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

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The Chairman:

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

Norman Littell:

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

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

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

Edward Hanson:

Mr. Chairman and Fellow Council Members: I have one

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

Norman Littell:

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

Edward Hanson:

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

Norman Littell:

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

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

The Chairman:

We will recess until 1:30.

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

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The Chairman:

Please call the roll.

Carl Beyal:

Called the roll. 66 Council members present.

The Chairman:

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

David Clah:

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

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

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

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

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

Norman Littell:

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

Manuel Denetsone:

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

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

The Chairman:

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

Norman Littell:

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

The Chairman:

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

Marcus Kanuho:

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

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

The Chairman:

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

68 Council members approve.

The Chairman:

All those opposed?

None opposed.

The Chairman:

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

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

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

Laurence Davis: (reading)

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

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

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

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

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

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

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

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

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

NOW THEREFORE BE IT RESOLVED THAT:

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

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

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

- (1) The Navajo Indian Irrigation Project not be reduced below a net area of 110,630 acres.
- (2) The authorized average annual diversion requirement of the Navajo Indian Irrigation Project not be reduced below 508,000 acre feet.
- (3) The Project be exclusively for Indian use, and the legislation provide for acquisition and transfer into trust status of the presently off-reservation areas susceptible to irrigation as part of the Project
- (4) No use in New Mexico of the San Juan River and its tributaries above Navajo Dam not heretofore authorized be given priority ahead of the Navajo Indian Irrigation Project.

The Chairman:

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

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

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acres were supposed to be land on which the water will be diverted. That has been cut down to 110,630. They do not want that cut down any smaller. Second: that the amount of water available should not be cut down from 508,000 acre feet. Third: That the Project be exclusively for Navajo Indian use. Heretofore 26,620 acres was supposed to be used by non-Indians in that area but that has been changed to acquire that land by transfer but now, as it is, the Navajos will purchase that land because of the difficulty of people living on there moving and making other acquisition of land. Last of all, we have this one here that no one should get ahead of us in using any part of the San Juan or its tributaries. We should have that water available for our irrigation purposes, so the Resolution states that no changes should be made and we stand on that without any change.

Laurence Davis:

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

Larry Davis (reading)

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

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

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

Laurence Davis (speaking)

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

Laurence Davis (reading)

Sec. 2. Pursuant to the provisions of the Act of April 11, 1956, 70 Stat 105, the Secretary of the Interior is authorized to construct the Navajo Indian Irrigation Project to include a net area of 110,630 acres of land with an average annual diversion requirement of 500,000 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.

Laurence Davis (speaking)

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

Laurence Davis (reading)

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

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

Larry Davis (speaking)

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

Larry Davis: (reading)

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

Larry Davis (speaking)

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

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

Larry Davis (reading)

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

Larry Davis (speaking)

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

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

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

The Chairman:

We will have a ten minute recess.

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

The Chairman:


We will continue with our discussion.

Larry Davis (reading)

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

Larry Davis (speaking)

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



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

Larry Davis (reading)

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

Larry Davis (speaking)

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

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Larry Davis (reading)

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

Larry Davis (speaking)

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

Larry Davis (reading)

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

Larry Davis (speaking)

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

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

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

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

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

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

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

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

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

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

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

Larry Davis (reading)

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

Larry Davis (speaking)

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

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

Jerry Keesee:

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

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

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

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

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

The Chairman:

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

Larry Davis:

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

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

Steve Reynolds:

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

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

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

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

on priority Note

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

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

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

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

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

The Chairman:

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

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

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

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The Chairman:

Will you please call the roll?

Carl Beyal:

Calls the roll. 70 Council members present.

The Chairman:

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

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

Reverend Clark

Delivered the invocation.

The Chairman:

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

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

Dean Person:

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

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

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

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

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

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

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The Chairman:

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

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

Larry Davis:

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

(Chorus: No.)

Larry Davis:

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

Grey Valentine:

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

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

Jerry Keesee:

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

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

Walter Collins:

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

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

The Chairman:

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

Jerry Keesee:

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

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

The Chairman:

We will have a ten minute recess.

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

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The Chairman:

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

Ned Hatathli:

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

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

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

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

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

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

The Chairman:

Mr. Davis, can you answer the first question?

Larry Davis:

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

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

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

Jerry Keesee:

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

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

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

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

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

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

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

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

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

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

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John Bliss:

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

The Chairman:

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

John Bliss:

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

The Chairman:

Yes.

Clifford Beck:

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

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Henry Taliman:

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

Yellowman:

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

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

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

The Chair n:

I believe Mr. Valentine has a question yet.

Grey Valentine:

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

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

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

Tyler Harris:

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

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

The Chairman:

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

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

All those in favor of this Resolution please stand.

70 Council members approve.

The Chairman:

All those opposed?

None opposed.

John Bliss:

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

The Chairman:

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

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

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

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1:30 p.m.

The Chairman:

Please call the roll.

Carl Beyal:

Called the roll. 70 Council members present.

The Chairman:

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

EXECUTIVE SESSION

The Chairman:

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

Norman Littell:

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

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

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reputable lawyers, that there was a formidable mining claim that would make a hole in your lease, but in all instances we turned it down. When I say "We turned it down", do not think we are determining Tribal policy. You determined Tribal policy by saying the leases should be offered for sale on certain conditions and the question for us as your counsel and oil consultant, who was also in on these meetings, and Mr. McCabe, who is on the negotiating end with the legal staff here, was whether we should present to the Advisory Committee and to you any modification of the offer which you had already approved and the result of every deliberation was "No". That is why you did not hear from us because we did not approve of these suggestions.

Now, this is a difficult legal subject which I try to explain whenever possible, but it happens to involve millions of dollars now and in the future and immediately, it involves three million dollars in this sale, so let us work it out together and let me make it as simple as I can. The last man who approached me was Mr. Bermingham, who is one of the attorneys of Continental Oil Company, who telephoned from New York and wanted to come down and see me. We follow the policy of listening to everybody because you can learn from the dumbest people. (That is a joke) That is not really an appropriate joke. In fact, this is a poor one because these fellows know what they want and as smart as they come. What he wanted was a rider on one or two tracts up for sale where he raised the mining claim as quite formidable and the Tribe might lose in a title contest and he would like to have a rider on that if they won in the bidding, the money would be refunded to them if the mining claim title won out over the Navajo Tribe's claim to title. We had already said "No" to this, but I set up an appointment for ten o'clock on December 3rd with the oil consultant and Mr. Alexander in my office and Fred Cornelius, the geologist, all four of us. My mother died the next day and I was out of town when this conference was held, Mr. Alexander, Mr. Bennett and Mr. Cornelius attending this meeting and they gave me a memorandum on my return which I filed with the Chairman and filed with the Tribe, summarizing that conference. I did not bother to read it because the answer was the same as I had made before - "No". There was no change in the offer of leases.

I forgot all about it, considering the matter closed, until I listened to the opening of bids on Tuesday morning and the announcement that two of those four tracts mentioned as subject to this rider, namely, the bidder would get his money back if the title was not good and if the area did not belong to the Reservation. Here were the two tracts that Mr. Bermingham had talked about. The mystery was cleared up in the afternoon when the sales were over, by the Tribe receiving

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a copy of the letter from Barton Greenwood, Acting Commissioner, to Wade Head dated December 5th, two days after the conference in my office, in which this ruling is laid down as to the four tracts and on the grounds which I will summarize without trying to read all of this letter.

Now this letter relates to this same J. R. Bermingham, one of the attorneys of the Continental Oil Company, who had come over and explained to them that a mining claim had been filed by Marilyn H. Smoot on September 12th, 1957, covering lands which are described in this letter. I will not read you the description, but it did not only embrace two tracts. Those lands embraced four tracts - #13, #14, #16 and #22, which I will show you in a minute or two on the map. I said that they had filed a mining claim but what I meant was that they filed an application for an oil and gas lease, as if this was public domain instead of being on the Reservation. That is the issue. They claimed in a proceeding before the Bureau of Land Management that under the Executive Order of 1905, May 15th, 1905, adding that area to the Reservation, that all valid mining claims were excluded and they recite there was a valid mining claim in this area and therefore it did not pass to the Navajos as part of the Reservation, but was a part of the public domain under Public Land Laws. That is as simple as I can make it.

The last three paragraphs of this letter conclude as follows:

Mr. Bermingham was particularly interested in tract No. 16, and we presume that they propose to bid on it on December 10. We were requested to give the Continental Oil Company some assurance that they would not stand to lose any bonuses, rentals, or royalties in the event that it is finally determined that the title to tract No. 16 is not vested in the Navajo Tribe.

In view of the foregoing, we are requesting that any monies received, including bonuses, rent, or royalties, on tract No. 16 be held in special deposit pending a final determination of the appeal made by Marilyn H. Smoot. This would equally be true if a similar situation should exist elsewhere.

The acceptance of any bid would be conditioned upon a final determination of the property being a part of the Navajo Reservation. In the event that it is finally determined that the land is not a part of the Navajo Reservation, all of the monies received would be returned to the bidder.

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I want to take a minute to introduce Walter Wolf to you. He is a young graduate from Michigan Law School. He is on a trial run and, from all I have heard, he is making a good thing of it. He is helping on this as well as other matters. (Applause) I will not give him a chance to make a speech because I need all the time.

Well, this raises a pretty terrible problem on this Reservation. It makes you a guarantor of your title. If anything goes wrong with your title, the guy gets his money back. You would never know whether you had any money or not. I will show you how this works out on these tracts at issue here.

Here is Tract # 13. (pointing to map) It is partially in grey down here and partially in white. The grey part of Tract #13 is that covered by the Smoot oil and gas application, the title to which is contended by Birmingham to be in doubt and he wishes to be insured against any defect in the title. That covers about one-third of Tract 13. That turned out to be one of the hottest sections, because here you got 4,000 an acre. That is where \$1,024,000 was bid by the Carter Oil Company because here was one of the secrets of the Reservation before the bid opened. That is one of the hottest wells on the Reservation, that Carter well in the next section that was sold in the preceding oil lease sale. All the oil companies were trying to find out about that well. They had scouts out with special glasses watching that well. They wanted to get closer, but Carter would not let them. They even counted the casing going in and coming out to find out how deep it was. Now, they know, because 4,000 an acre was paid by Carter to get this piece. You also got other bids between \$3700 and \$3900 an acre in that area so some of the boys knew the score for that Tract #13 and the total area of those four tracts, by Greenwood's letter, of #13, #14, #18 and #22. A part of which area, it is sufficient to say for your purposes, is covered in grey, which is covered by the Smoot applications.

Now, these Smoots you are going to hear about regularly because they are filing application whenever a finding is made - either he or his wife. It is generally true in oil fields and coal mines. If there is any error in a title, somebody tries to plaster a court plaster on it and that is what they have done in all this grey area and they have done it also elsewhere on the Reservation, and that is the title which under the Greenwood letter is protected, because if their title prevails over your title, the money goes back. Mr. Birmingham of Continental got a lot more than he asked for. He was talking about 18 and 22 and the Greenwood letter mentions only #18, but he gives the legal description of #13, #14, #18 and #22 so he spread the whole doctrine over the whole area, the total

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secured from the bids being under three million dollars.

Now, I hated to stand in the spot of the guy who has to tell you that you have to give up three million dollars. It is not a pleasant position to be in. Maybe we can work around it but I want to tell you you cannot lease property on the reservation and guarantee title and I will give you two simple reasons. I do not care what the price is, you cannot guarantee title. As soon as you guarantee title, and that is what you do when you promise to give the money back if the title is not good, you are guaranteeing title. As soon as you guarantee title you are to some extent underwriting or guaranteeing a dry hole because as soon as a guy gets a tract and hits a dry hole, he is disappointed and he will say his title is bad and he will move every point to get his money back from you. That is one reason.

Here is another reason: I told the Advisory Committee last night that I hoped Mr. Carter is a nice man and goes to church on Sunday because if he is not a nice man and does not go to church on Sunday, that is all you would have between you and working a neat deal with Mr. Smoot. What is to prevent Mr. Carter from going to Mr. Smoot and saying "I am going to put in for you and fight for your title. I will get my million back from the Navajos and give you 100,000 or 200,000 or give you a share of the oil out of the interest in this oil and we will both make a lot of money out of this." In other words, Carter's interest is against you in favor of the other title. He can be. He might, on the other hand, be a man who goes to church and is a nice man.

Now I do not say this will happen but you have to put yourselves in a position where things can happen and, as soon as you guarantee title, it can happen because it becomes the interest of the bidder to get his money back to show the other fellow is title is better than yours. He may not do that. In most cases they will not, but they can.

There were three bidders who took this center tract, The Texas Oil Company, Carter Oil Company and Phillips-Aztec, a combination of two companies.

As a matter of fact, you have that very case already I am told by Larry Davis in an application pending before the Bureau of Land Management by the Superior Oil Company in which they are contending the application on an oil and gas lease within the area leased by you has a superior title to yours. There it is.

Then, when we were talking last night, Mr. Spaulding brought up three more Smoot applications given to him by

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representatives of the Mohawk Oil Company on lands they had leased from us. They missed one and bid on others and, to get Mr. Smoot's claim out of the way, they paid Mr. Smoot for his interest. Here it is, right here (pointing to the map) this dark shaded area, Tracts 6, 7, 8 and 9. Mr. Smoot is in that business obviously, and he made a nice deal by filing a piece of paper in the Bureau of Land Management and that is what he expected to do right there.

I gave you two reasons why you cannot guarantee title. One part of the last reason - that you put the bidder in position to join forces with the title claimant - is because it would bring all the tremendous legal forces of the oil companies against you instead of for you. You have only got five or six men here in the Legal Department, as I told the Advisory Committee, a one-horse shay operation, as against the oil companies' legal representatives with millions of dollars behind them, if you give the bidder a chance to join forces against the other applicants and try to beat the Navajo title. We do not mind taking on reasonable odds, say three to one, but when you march them up in Company formation, we get a little worried. I think I have said enough to show you why you cannot do this. I will now proceed to tell you the letter, in my opinion, is illegal for several reasons and will have to be revoked. We presented this to the Advisory Committee last night because we properly felt the matter is of such major importance that it should be reported to you and I was instructed to contact the Commissioner and whoever it was that I should contact, short of the President, to try to get this letter wiped out and revoked. I told the Advisory Committee last night that I was sure Glen Emons knew nothing about it and that the provision had been walked through a section of Interior and my old friend, Barton Greenwood, who is a fine and honorable public servant, had not realized the full import of what he had been persuaded to sign and that diagnosis proved to be precisely correct. Mr. Emons was very much taken aback and asked: "Were you not consulted about this?" because we have had close collaboration in Washington, just like you have here with Mr. Spaulding and I had to tell him that we had not been consulted but felt they had walked through our office and got "No", but walked through his office and got "Yes". The Commissioner then had my call transferred to Greenwood and there is perhaps no need to relate our very vigorous conversation about this letter. We are old friends and we can exchange blows without hurting each other too much and we did. I told Mr. Greenwood the letter would have to be rescinded and revoked and he said it would have to be approved by somebody in the Solicitor's Office and they could not expect to put up for said lands which Navajos did not own could they?" I said: "We certainly do. You put up the title of Navajo tracts just exactly as they are without any question of title on your part."

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I pointed out some of the factors in this letter which, quite frankly, I regard as incompetent. It was prepared below the real estate section. For example, it says that all the money goes back if title fails. Even in my office with Alexander, Birmingham said if 75% of it fails, you give back 75% of the money and keep 25%, but this is a straight 100% refund deal, so that in that small clear area, the title is bid in the tract and you lose one million dollars. They did not even get into those refinements. I pointed out that he said the money would be impounded until final determination. You know that means the Supreme Court of the United States. He said: "Oh, no, we did not mean it that way!" I said: "That is what it means to any lawyer in Christendom and you take three million dollars for five years at five percent - I think that is 1,500,000 or about 750,000 and usually there is no interest drawn on impounded funds unless special arrangements are made." He said: "Well, we can modify that." I said: "Modify it, Hell - you are going to revoke it!" (Laughter) I said: "Bart, if you don't, you are going to have the damnest state of warfare between the Navajo Tribe and the Bureau of Indian Affairs you have ever had since I have been here." He said: "Well, this matter will have to go to the Solicitor." I said: "So am I." He said: "I will transfer this call to the Solicitor", which he very kindly did, but the Solicitor was in California and I did not want to contact an assistant because we had discussed this very problem in a matter of days before I came here, so I pursued the Solicitor until I found him in Long Beach, California and that is the reason I was not at the Council meeting this morning because I was running this matter down.

Now I am glad to say we have a clear thinking, hard-headed, able lawyer in the Solicitor. He agreed with me completely in other words. Any man who agrees with you is naturally a great man. (Laughter). Now, he also pointed out that the United States Government does the exact thing that we are contending for. They offer any public land without title. They even sell public land with a patented claim right in the middle of it! It is the buyer's risk. He gets what he buys and it is up to him to determine what he is buying. There is no reason why the Indians should not have exactly the same treatment. He is phoning his office today and has done so now, so do not walk out of here and say the Solicitor of the Department of the Interior is reversing the Indian Bureau. Let that take place in a natural and polite way. I am telling you frankly what he said to me but, after all, it is a personal conversation to a very large degree. However, on the legal front, the net result is we are on very sound ground and I believe the letter will be revoked. Before I leave that subject, do not be too hard on my old friend Bart, who has been quite ill in recent months and has quite a lot of work and that provision was walked through a lower section of the Bureau. In fact I told him:

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"I signed some bum letters when I was Assistant Attorney General and you have signed some bum ones and this is one of the bumest ones you ever signed." (Laughter) Actually, I was being a little generous. I never signed one that bad when I was the Assistant Attorney General, but misery loves company and I wanted to get right in bed with him. (Laughter)

Now, assuming that we have won that phase of the battle, and I never quite make that assumption until I have won that phase of the battle, but assuming that letter is going to be revoked, that does not solve the problem because you had a public announcement made here on which some bidders say they relied. How about Mr. Carter if he said: "I bid \$4,000 an acre and you said I could get my money back if title washed out on me." I suggest another flank attack and I outline it briefly to you: I do not begin to suggest all the things that could happen, but suppose they sue later or contend they want their money back or suppose they sue and the Commissioner revokes this on various legal grounds, which I will not review with you because it will take too much time, and say: "Nevertheless, we relied on this announcement publicly made." They will have to admit they got this information privately in advance because all bids were in and the announcement was made at ten o'clock and how hair-splitting these things can be.

The Chairman:

I will declare a recess for ten minutes.

(Whereby at 3:05 p.m. a ten minute recess was taken)

The Chairman:

Mr. Littell, you can proceed with your discussion.

Norman Littell:

It seems the Tribe should write a letter to these bidders in this general effect: Let me explain first even if we get that letter revoked, you have got some companies, as I told you, who got the information before, or somehow and they will say they bid upon reliance on it. The four winning bidders want to hold those properties. They are very hot properties, because anybody knows when \$4,000 an acre is bid, it is very hot property and the well across the road is a very good one so they would be very reluctant to have these properties put up for bid again. Now, if these men, these winning bidders think there is any chance of your rejecting this bid, maybe they will come in and offer to waive or withdraw this condition and say: "We would like to have you keep our bid without the

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condition that the money be refunded if title fails. That is the objective - to get this condition out of it entirely. First, you get the letter revoked and second, you get the bidders to waive this condition and I propose that the Tribe write this letter to each and every bidder: After referring to this announcement which was made at ten o'clock on the 10th, I won't bother to read that paragraph, but we will go on to say: "The Navajo Tribe was unaware of this change in the terms and conditions upon which these tracts were offered for bids until representatives of the Tribe heard the above announcement. For the sake of the fair and orderly administration of bidding on oil and gas leases, the Tribe will greatly appreciate your answering the following questions:

1. Was your company informed of the condition referred to above before the condition was publicly announced at the opening of bids?
2. Was your company informed of this condition before it submitted its bid or bids for opening on December 10?
3. If your company bid on any of tracts numbered 13, 14, 18 and 22, without knowing of this condition, how would your bid have been affected had you known about it?
4. If your company did know of this condition before making its bid, what effect did this have on your bid?
5. Would you wish to have the Tribe reject the bids on tracts 13, 14, 18 and 22 and offer them again for bids at one of the approaching bid-opening dates already advertised?

The Navajo Tribe will appreciate your full and frank answers to these questions and will treat the contents of your replies as confidential. "

Now, these matters are very complicated and they are hard decisions to make but you will have to make a lot of hard decisions in this rough and tumble oil business. The purpose of this letter is two-fold. In the first place, this is the most immediate contact you have had with the industry. They will not try to walk this one through the Bureau as they walked the other one through as they see you are on your toes and stopped them. That might be called a secondary motive but the primary motive is to alert these winning bidders to the

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danger of losing these bids unless they waive those conditions and all of us who have discussed this think there is a good chance of their coming in. if the industry will say: "We would like to have these put up for bid again" and we think there is a pretty good chance to waive those conditions and then you can decide whether to keep the bids if they do waive the conditions or put them up again. There is one thing I am perfectly sure of - and this is the only thing I am sure of - and that is that you cannot guarantee title. You have to get these conditions out of the way because of having got this concession once, other companies will say: "We want more conditions like this on future bids" and then where are you?

Now, I might say that in my conversation with the Solicitor of the Department of the Interior I told him I thought this letter would probably be written if the Advisory Committee and Council approved it and it was a good idea. He said that it would take care of the Continental people. They do not want to risk this thing going up for bid again and if they feel there is a danger of that from the pressure of the rest of the companies, that the Tribe might reject the bids on these four tracts and call for new bids, they might come right in and waive the conditions. We cannot go forward with them. I hope you agree with me on that. I believe that is all I have to say, Mr. Chairman, but maybe Mr. Spaulding will have something to add. He is certainly cooperative in this whole thing and is not responsible for the announcement made. I think he regrets it as much as we do, but you have the facts now and if there are any questions or remarks, I should be glad to have them.

G. Warren Spaulding:

I think Mr. Littell has very adequately covered it. I do not think of a thing to add.

Norman Littell:

I will only add this: That the letter from Mr. Greenwood has not been made public. The industry does not know what is in it and Mr. Spaulding has seen to it that copies are not made. The only thing that was made was the announcement and the effect of it was that money would be impounded on these four tracts. That is all the industry knows and I do not want this letter to be out.

Dillon Platero:

Mr. Chairman and Members of the Navajo Tribal Council: I would like to direct this question to Mr. Littell, this question having to do with the letter that he is referring to

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here which is to be sent to each bidder. I am just thinking of this one particular thing which I do not quite understand. I believe the significance of this letter would be to get the other oil companies to know just what went on, that is, about the announcement and to bring out the fact that these people who knew beforehand to come out and say they probably want to get together with us. I am questioning this. If we do send this letter out to each of these oil companies, it would almost be inevitable to stop the other companies from saying "We want another bid." I mean the companies that are concerned here, the ones who probably knew beforehand of the contents of the letter that was read from the Deputy Commissioner. Will that in any way harm the possibilities of getting together with the people who are concerned in this, like the Carter Oil Company? Do you get my point?

Norman Littell:

That is a very good question and there can be no clear answer to it. This is a non-legal matter in which you are speculating on human relationships. We considered the possibility first of negotiating with these four winning bidders and we can still do that if you prefer that way if they would waive this condition. On the other hand, it seems to me, you have a standard of fairness that you have got to insist upon. Would it be quite right to deal quietly on the side and try to hush the matter up with the rest of the industry when they are all talking about that announcement? There was a lot of talk in this room when it was announced. It took them all by surprise and would it not be frank to lay it on the table and let the industry know, who did not know about it either. I do not know the answer to the question and I will abide by your judgment of course as to whether this letter should go out.

Henry Taliman:

Mr. Chairman and Members of the Council: I feel that the suggestion that has been made by our attorney, Mr. Littell, is a very good thing. It is in order in my opinion and also, this has been brought up before the Advisory Committee and with their recommendation that it is in order in thinking that we will send these notices and letters to various companies that have been involved in bidding the last couple of days. Whereas, if we can recommend to let each Company know it, the result might be in the future that some other company may try to pull off the same thing. Now it has been said that the notice, the hush-hush notice, is already going on to that effect. If any of these companies know anything about this, I do not see any reasons to object to the notice we are going

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to send out. If they did not, I do not believe that any company knowing anything about it, they would have brought this matter out or at least they would have come out with the fact that should have been known among themselves or somebody else. I think it is a matter of something to be straightened out for the benefit and good name of other companies that we are dealing with. On the other hand, we are dealing with our able attorneys, our legal advisors, which we have now on the staff. I suggest that the Council recommend that we send these letters out to every individual oil company.

The Chairman:

Mr. Littell has told us the procedure to straighten this matter up to the satisfaction of the Navajo Tribe as well as the oil people who favored us with sizeable bids for a portion of our land and this is only one expression of a Councilman approving the procedure and I feel sure you all feel the same way as expressed by Mr. Taliman. I would like to have an expression from the Council. We have one expression from one Councilman on the subject. If you are not in favor of the plan which has been moved and seconded to have the Council act on it, maybe you can insert something that you feel should be included in there, so that is before you now and I hope you have understood it fully what has been explained to you by Mr. Littell.

Henry Taliman:

Mr. Chairman and Members of the Council: Just one more remark I wanted to bring out whether it will be in order or not but I think the insertion in the suggestion should be whether or not these people are meaning that we do not have any right to the laws and Executive Orders that have been made some years back, whether they do not understand it or not, but I would like for that to be included for the understanding of both parties that are involved because any addition that is being made by Executive Order in the past should be definitely understood by both parties concerned and especially the Tribe. There are a lot of things we do not know under the Executive Order ruling whether that is the Reservation or whether we do not own it. We should have some kind of insertion like that to be made.

Norman Littell:

I can understand Henry's suggestion on this front but I do not want to kick that beehive. There is no general answer that they can make except one which is of no use to us. We have to meet those issues of whether a claim is in the

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Public Domain or in the Navajo Reservation on each individual case. It depends on dates, on whether and when that mining claim became defunct. You cannot meet it in any general way but have to meet it in each individual case. I do not want to stir those animals up by any question in this regard. There will not be any large areas involved. Do not worry too much about that. There may be a few points where you might lose out but we, in the Legal Department, do not consider that too harmful so long as you do not guarantee title. That makes your bidders to stand with you to protect your title. I have an expression about this. I will go a little further and tell you how I feel about it. I rather hoped you would do that, as Henry did. This letter, it seems to me, puts the Navajo Tribe on record with the industry, showing the industry that the Navajo Tribe had no part of this deal which they are talking about. They do not know where it came from and they have found out something since but it shows you have nothing to do with it and you want the bidding here to be fair and above board and with the same conditions for all parties. Secondly, it is a complete notice to the industry that you will not put up with that monkey business in the future and there will be no such conditions or guarantees of title in the future and you do that in one communication and within 48 hours instead of trying to prove it to them in the next year or two, when there will be requests for similar conditions, that is, money back if the title is not right.

Lastly, one more point on that. If you went ahead and advised us to go ahead and negotiate with these four winning bidders and make a private deal and said: "Look, boys, if you will waive these conditions, we will let you go on", the industry will know that and they will think there is something going on under the table. I like to have things out in the open and frank and honest so that everybody knows where you are.

The Chairman:

I would like to hear some expression from the Advisory Committee members who have heard the detailed discussion on this very thing we are discussing at this time. Have you arrived at any conclusion as to what procedure to follow?

Red Hatathli:

Mr. Chairman and Members of the Council: There is one thing that puzzles me as to the deliberations of last night. We understood from Mr. Littell that in case that the letter he is referring to, the letter from Mr. Barton Greenwood, should be revoked, there is no need to send out any letters to the various oil companies and it has been brought out here today that the letter may be revoked and, if it is revoked, why is

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it necessary at this time to send out letters to the oil companies? I have had an idea that the Bureau should revoke this particular letter that we are going about in a manner which has been established heretofore in leasing lands for oil. I understand heretofore no title was ever guaranteed and if the letter in question is revoked, we will follow the same procedure as in the past. Perhaps some explanation can be made by Mr. Littell to get our thinking clear.

Norman Littell:

Had the Advisory Committee met at 1:30 as the Chairman announced, I would have picked up the discussion of yesterday evening and answered Mr. Matathli's question. I went on to a general explanation for you.

Now, the answer to his question is this: I was not clear in my mind last night as to what course we should follow in respect to the letter, but during the night and this morning it became clear to my mind about it as far as I am concerned for this reason, which Mr. Matathli has not yet been advised of. If you get the letter revoked, as I hope and believe you will, it still leaves unsolved the problem of the Companies who will claim they bid upon those conditions. Supposing Carter says: "I only bid 4,000 an acre because you agreed if the title failed I would get my money back." The revocation might be all right from this point on further, but the bidders who relied on that announcement, they might take a very different point of view and I want to deal with those fellows and bring them into camp so that they will waive the conditions and this letter would force this condition because they would be so scared of our calling for bids on these tracts, which would mean they would lose them, that they would come in and waive the conditions. Now, I will only add that I do not know that it is absolutely necessary for any letter to go out at this moment, but it seems entirely right to me and the Solicitor of the Department says it is a good idea and it will take care of Mr. Carter but, if you prefer, we can negotiate with these winning bidders and say: "No deal. If you wish to waive these conditions, the Tribe would accept the bids." If they say "No", then we would be right out and start a fire under them and maybe they will change their minds. That is a matter of judgment as to how they wish to proceed. I merely told you how my mind reacted to the whole problem.

Grey Valentine:

Mr. Chairman and members of the Navajo Tribal Council: I would like to make a short statement here. I wonder why is it that we are perhaps beginning to lose revenue realized through the oil activities on the Reservation? It seems to me

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there are two different statements being made with respect to these activities. We were first informed perhaps the oil bidding would not prove so profitable this time but yet, on the other hand, we are perhaps getting to a stage where perhaps one-half of the revenue realized through this program may be lost to the Tribe. Since there are such conflicting problems involved in this, why not stop all operations in connection with this oil leasing program? In other words, do not do anything until this letter is taken care of and other points clarified and settled. Then, at that time, we can open up our program again as far as offering bids, etc. Why cannot we not do that? That is, get these things cleared up and stop our oil program until we do clear and settle all problems.

Dillon Platero:

Mr. Chairman and Members of the Council: I made a statement here, or rather asked a question, but one of my colleagues asked me if that is what I am wanting. That is the question about conferring with these four oil companies who have made this particular bid. I am not saying that we make it a sort of shady deal on the side. I was only asking a question for my own information. Last night at our meeting - the Advisory Committee with Mr. Littell and other members of our legal staff - we discussed that I believe at length and in detail some of the things that were barely touched upon here today. There were four points presented to us last night by Mr. Littell in trying to combat what we are faced with today. I believe the first point he brought out was to try and contact the Commissioner himself and possibly the Solicitor and try to get this thing resolved. Secondly, this letter was to be sent out to the oil companies asking these questions, the questions pertaining to the sale - whether they knew beforehand that his announcement was to be made. The third point I believe was about areas where the same thing could happen. Maybe mining claims were made at such a time that the same thing would happen - to try to block up these holes where there are conflicting things of this type so that it will not repeat again in the future. Fourth: A general withdrawal of areas of this type so that claims like this could not be made by people like the Smoots and somebody made a statement that we have been hearing about Sputniks, Nuttniks and now it is Smootniks and it seems to have created quite a bit of controversy and I believe these are four things which generally are what our attorney presented last night.

In regard to the recommendation that has been made by our attorney here, he has asked the Council what their wishes are as far as the letter to be sent out to these oil companies. The plan that he is using here and that he has related to us I believe is good and that this letter should be sent out to these oil companies so that the Tribe itself would be on the

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level and out in the open as he explained. Mr. Valentine asked a question in a form of a recommendation that maybe it would be best to hold up the bids until these difficulties are ironed out but I, for one, think these areas that would be bid for in the next bidding are pretty well in hand but maybe Mr. Littell can make other comments on that. But, at this time, I would like to make a Motion that we agree to have this letter sent out to the oil companies.

Roger Davis:

I second the Motion.

The Chairman:

The Motion has been made and seconded that we approve this letter to be sent to the oil companies. All those in favor of this letter being sent to the oil companies, please rise..

60 Council members approve.

The Chairman:

All those opposed?

2 Council members opposed.

Grey Valentine:

Mr. Chairman and Members of the Council: I am opposed to this because I feel there are problems that have to be solved and settled before we can carry on our oil sales program. I feel only representatives from these companies do approach the Tribe and make these bids. I think that rather than doing that, we should have all this investigated and get it settled before we continue like we have been in the past.

The Chairman:

We have not started any new system of advertising for oil bids. There is no new system that has been initiated here. We are following prescribed regulations by the Secretary of the Interior. This is the first time we have run across a case where the land is in dispute. That is the reason for this unnecessarily long discussion about it. It has never happened before so there is no change in the bid whatever. There is no bribery to my knowledge to accepting anybody's bid. Let us understand that. The only thing that has made for this long discussion is the fact that out of a clear sky this Smoot comes in and says he has a valid claim. We have always contended it

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was Reservation and you people were using it like any part of the Reservation and I would like Mr. Littell to answer briefly what procedure can be followed on that.

Norman Littell:

I did not realize that Grey Valentine's prior statement was something of a question. There is no reason to postpone the other bids because this letter and these conditions pertain only to these four tracts in this one advertised sale, Lot #1, and it will have nothing to do with those opened in January, February and March. One of the reasons I am glad you voted to send this letter is that before you meet at the regular meeting in January, we will have a lot more information about this thing than we have at this moment and I trust and I am quite sure we will have the problem solved or revoking that letter but, by sending the letter out we will have information for you in January as to how to deal with these four tracts and you must be consulted about that and you must make that decision. I want all the information by the January meeting. It may be completely solved and I hope it will be.

As to the other points the Chairman made about people making claims around the Reservation, we will not discuss that tonight because it will take too long, but Mr. Platero touched on the four points I touched upon last night.

I am going tomorrow afternoon but if you want more information, we will discuss that further in the morning if you so desire.

The Chairman:

It has been suggested we do not want to cut this discussion short as it is very important to know everything about it so that this matter has been discussed briefly with us last night and again today and we still have indication that we do not fully understand it. I would like to suggest we have the background; how we arrived at that by our Executive Secretary because he has a direct contact with that within the last week.

We will recess now until 9:30 in the morning.

(Whereupon, at 5:15 p.m. the Council recessed until 9:00 a.m. of the following day.)

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The Chairman:

Will you please call the roll.

(Carl Beyal called the roll at 9:00 a.m., Friday morning, December 13, 1957. 10 Council members were present)

The Chairman:

We have a quorum and at this time I would like to call upon the Reverend Father Lynch to deliver the invocation.

(Reverend Conall P. Lynch, O.F.M., delivered the invocation)

The Chairman:

Last night we said we would go back to the matter from the basic principle to where we were talking about the oil sales, but this morning I noticed some of the members of the Council saying they have heard all they wish to hear about it, so if that is a wish of the Council we will proceed with a new subject this morning.

We have had quite a number of complaints from the Navajos where there is a lot of activity going on in the Four Corners Area, and they have complained to us and I thought yesterday that we should send two men up there with Mr. Hubbard, and they should spend several days up there which they did and they have come back with a report and the report indicates the people need to be helped to a great degree in many ways. While the oil companies are willing to help they will have to give them help the way the people need help up there. It is this thought that we should create two positions to have a liaison representative there for the Navajo Tribe to talk with the oil people and at the same time look after the welfare of the Navajos in the area, so that is the reason this proposed Resolution has been distributed to you as a first order of business this morning.

The Chairman:

Will the Secretary please read the proposed Resolution:

Mr. McCabe: (reading)

"Proposed Resolution of the Navajo Tribal Council
Creating Two Positions to be Filled by Tribal Personnel to
Conduct Liaison Work between the Navajo Tribe, Navajo people and
various Oil and Gas Companies

WHEREAS:

1. There are many problems directly affecting the Navajo Tribe and the Navajo residents of the northeastern portion of

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the Navajo Reservation due to the increase in mining, oil and gas, and other activities in this area, and

2. The development of this area has brought in the past and will continue to bring in the future great benefits to the Navajo Tribe and its people, and

3. It is of direct interest to the Tribe that an orderly growth takes place and that the lives, property and other interests of the Navajo Tribe and the Navajo residents be properly protected, and

4. Experience has shown that unless we have our own employees which are under the direction of the Tribal Administration the present great problems cannot be completely solved, and

5. After careful consideration of these problems, the Advisory Committee has recommended to the Tribal Council that this resolution be given favorable consideration.

NOW THEREFORE BE IT RESOLVED THAT:

1. Two positions are hereby created for stationing of Tribal personnel in the Four Corners area of the Navajo Reservation

2. Division 581 entitled General Administration of the Navajo Tribal Budget for Fiscal Year 1958, be and it is hereby amended and additional funds are appropriated as follows:

Section H entitled "Liaison Personnel"

.1 Personal services-----	\$15,000
.17 Travel and Per Diem-----	700
.140 Equipment	
2 vehicles-----	\$4,000
2 two-way radios	1,800
Other-----	1,000
	<hr/>
.250 Contingencies-----	1,500
	<hr/>
	\$28,000

3. The Bureau of Indian Affairs is respectfully requested to expedite approval of the appropriation contained herein so that the present activities in the Four Corners area may be advanced in an advantageous manner to all concerned."

Mr. McCabe: (speaking)

Mr. Chairman, Members of the Council: I should like to

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draw attention to the second page where we have a breakdown in the amounts requested. You will notice under "Personal Services" we have \$15,000.

Now this Resolution will probably be approved some time in January. Perhaps early in January so that we can move ahead with employing these personnel to be located in the Four Corners Area. That personnel--while we have it on the face of the Resolution that it will create two positions it was felt that we might employ three people or it may be that we may employ four people, and I would like to tell you some of the reasons we might employ four people to do what we expect this department to do for the Tribe in this area. As we have all learned through the discussion of yesterday that with increase in oil and gas bidding, with the increase of Tribal lands being put up for sale there has been increased income and together with this good thing, if we can call it that, we are running into other situations and some of them are problematical and it behooves us to take some of the good with some of the bad in that area. In the first place, I believe this Resolution will be the forerunner of an oil and gas department of the Navajo Tribal organization. Actually, in drafting this Resolution and discussing it with the Advisory Committee and after reviewing the reports submitted by Mr. Wolf and Mr. Hubbard there were many things that came to mind and it seems that these situations can be clarified in three areas. First of all, surface damages. Second, business sites; Third, technical values and technical problems that come up in the area and we might say there are many legal problems which will develop and for which we have no answers at this time. Actually, this Resolution takes care of our immediate concern and that immediate concern has to do with the Navajo people in that area whose livelihood in the livestock business at this time seems to be threatened. I would like to make mention of some of the things listed here which this department can probably do, a lot of field work in order that we may get solutions to some of the problems that come up in the area. I should like to bring the first fact that in this oil and gas business there will have to be a determination also with respect to Tribal responsibility and Bureau responsibility insofar as the oil and gas industry is concerned on the Reservation. Heretofore we have been looking to the Bureau for assistance when problems come in that area because the Bureau is better staffed than we are and they have personnel to look into this type of problem that we are facing up in that area. I do not mean to take a lot of your time, but I want to point out the magnitude of some of these questions that come up to the Tribal office, and I am sure to the Bureau of Indian Affairs, and it appears to me we do not know where to start on some of these questions. Let us go through some of these things we are facing, which we are handling at the present time, but for which we do not have a competent staff to thoroughly research into these things

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so that we can give some answer to the people who bring these problems to the attention of the Tribe and the Bureau.

You have under the general category of attracting oil and gas industries to the Reservation--let us take the Texas Company who just now has put a cracking plant in the Four Corners Area. Then the Shell Oil Company which came in with a proposition to put a new type of gathering system or metering system on wells that were developed in the New Mexico portion of the Reservation, and then we can also look into the river bottom question. I believe the Texas Company is helping the Tribe in respect to the title of these lands, and the school section question in Utah. Then there is the income tax. The State of Arizona or the Attorney General has ruled the Tribal income is taxable. What is the procedure in getting expenditures for this 37½ percent royalty that is supposed to be expended for the benefit of Navajo people in the State of Utah? How about business sites? There is evidence in the Four Corners Area we are having oil well service companies coming in here putting up their buildings and storing their equipment on the Reservation and serving these oil wells in that area. The question of a business site--are they a part of the lease or are they a service to the company drilling the well? Or what is their status? There are many businesses operating in that area. That is the thing that should be checked. Then there is a question of surface damages, putting roads all over in their grazing area up there, the tearing down of fences, personal property of Navajo Indians---all this type of question at the present time is facing us in the Four Corners Area.

More on the technical side I would like to point up this problem that the Indian Department is wrestling with and that is the forty or the eighty acres of spacing between wells, and the adequacies of some of the present surveys. We have no staff to check that type of oil description. Then, the Utah boundary dispute. There are many, many problems which are with us or looming over the liaison that we will be faced with in the very near future, and what I want to point out is that these are the type of problems we will be having and we will have until we have an oil and gas department. This Resolution provides for two positions and I would like to have you strike the "two" and just put in "positions" and perhaps this will be the forerunner of an oil and gas department.

Lee Tom:

Mr. Chairman, Members of the Council: I would just like to make a brief statement here about the situation. There is something about this Resolution and the supplemental information

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that has just been given to us. It is true whenever something new is brought before you, you will naturally have some objection to it, but I know for a fact that in the Four Corners Area there are many of this objectionable activities being carried on. I know about some of the damages and other activities. Of course we do not object at all to the finding of the oil and also the developments, but it is the damages that are the result of these developments, like for instance, the roads that are being built by these people, not really being built but they just use a regular ordinary road system. But these representatives usually have a practice of making straight cuts through ranges thereby depriving the Navajo people of many of these range uses. I know these things are taking place in the Shiprock area towards Cortez, towards the Ute Reservation vicinity. Now very recently I have seen the same thing in the Shiprock area. It is because I have seen roads scattered all over across the ranges. I think that if we establish these positions and if we dispatch workers who would oversee all of these activities, many of these hair-raising problems would be eliminated. We have had a meeting about the situation and have prepared a petition to be presented to this body. However, I cannot supply that now because Mr. David Clah happened to lock up his car and it is in there, but I will say there are names on this document showing that it is reported by proper Tribal officers, like Chapter officers and so forth, but I am pretty sure if we do establish these positions we will eliminate a lot of these practices of using ranges just haphazardly for roads and depriving the Navajo people of their range use.

Mr. Howard McKinley:

Mr. Chairman, Fellow Councilmen: I think this Resolution deals with something that is very essential to the Tribal business. There are many questions that could be asked about it, but since it is on a pilot-project basis I think this would be adequate to serve our purposes except for one small item. I think that these two positions will have all the work they can handle, but it seems to me they ought to have an assistant. I do not know of any skilled workman that is ever hired without an assistant. You do not hire a stone mason without somebody carrying the mortar, and it seems to me there should be some position made to have some young man, one of our own young Navajo boys to be an assistant, and also to learn something about the oil business. Therefore, I am in agreement with Mr. McCabe's suggestion that we should say not two positions but that we should have "needed" positions....you could try to find a better word than that---and that \$4,000 be added to this for an assistant. It seems to me there are a lot of problems. Not only do we have these problems, but we understand that oil is being stolen at night and all that sort of thing, and it seems to me

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that it would be in order to add \$4,000 for another assistant.

The Chairman:

I would like to ask Mr. Littell a question. Mr. Lee Tom has given us a proposed Resolution on the same order as has been read to you, and in the complaint it states that there are too many roads to one well. I wonder if Mr. Littell can suggest a possible answer or eliminate the too many roads to one well. What suggestion could we come up with, Mr. Littell?

Mr. Littell:

Mr. Chairman, Members of the Council: It is one of the subjects of a letter that I wrote to the Secretary of the Interior after a conference with the Solicitor and Commissioner of Indian Affairs hoping to hold this on an oral basis, rather than documentary basis, and that matter is under examination right now because of the failure of the Government services to protect against these very damages in the whole area. The Government regulations are entirely adequate to protect you against that sort of thing, but again they have failed to protect against contamination of water, against too many entries, and too many roads on a location, and there has been absolutely no enforcement whatsoever. You may remember I reported to you in the investigation of a junior law clerk--he was in our law department last summer, Mr. Robinson, and I presented evidence and pictures showing the contamination of water that was killing stock, the failure to fence, and they are investigating that in the Department of the Interior, but that is not satisfactory. You need your own watchmen. There is no interest like enlightened self-interest to relieve the situation, and I am in hopes when the report goes back which I will discuss with the Solicitor of the Department of Interior that that will be the basis of reforms up there, but get your own men in there in the meantime. The Bureau of Indian Affairs in Washington agrees absolutely with my report on this matter, and says in its experience with other Indian oil development there is no solution except on insisting on the standards set forth by Mr. McGrath, the Supervisor, who was in here the other day who told me I had given him more trouble than anybody else. And I said-- "That's fine." I said, "Sit down and have a drink and we'll talk about it." And we did. He said, "I have not the manpower to do these things," and I said, "You don't need manpower. You just need a little guts. If you told the companies that you would enforce these regulations and present a few cases to the Prosecutor, you would soon get this cleaned up." He has written a big defense. I have the letter to the Secretary of the Interior. He has not got the manpower, and I'll say it has nothing to do with the case. The business just takes a little guts--that's all. But just the same I bought him a

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drink for a dollar. He talked a little better after that. I want to leave you with one more point on this problem. I could not agree with Mr. McC be more with what he says as to the necessity of establishing an oil supervision department. You have the money. You can afford it, and you must do something to protect these people, not only from these things we are talking about, roads and abuses which we have discussed, but something affirmative for these areas, a community center, recreation home or something like that. These people have been hurt in their way of living, and whether they can be relieved in some more affirmative ways----some of them have very definite claims for damages in my opinion. They may not know how to hire lawyers, and I think the affirmative department can say--"You have ruined this man. You should pay him many thousands of dollars." I think you could get things for these people without suing the company. I think with the founding of this department you can begin to do something affirmative for these Navajos who have been hurt, although there has been a tremendous benefit to the Tribe.

Paul Begay:

Mr. Chairman, Members of the Tribal Council: This Resolution which is here before us so we may use it to obtain two more people to handle the situation in the Four Corners Area, it seems to me what we have just been informed according to the reports that have been submitted by the two people who went there to make a survey. I feel before we go on we should hear directly from the men who have made these investigations, or at least one--namely, Mr. Hubbard.

The Chairman:

We'll have a ten-minute recess.

(Whereupon at 10:15 a.m., December 13, 1957, the Tribal Council recessed for ten minutes)

The Chairman:

Will you please come to order?

The question has been raised that we would like to know about actual conditions, either from the people who investigated or Bill Hatathley who has been complaining for a long time about conditions in this area, so I will ask him to relate to the Council the actual conditions because he comes from the midst of where this activity is going on.

Bill Hatathley:

Mr. Chairman, Members of the Council, and Visitors: Once

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in a while a speaker may go on a subject that he may not be familiar with, but in this case I think I take a position to the contrary which is that I know this subject very much by heart. In fact, I know these things are going on because I have seen it with my own eyes and I have suffered myself in some of these activities that have been brought on by the development of oil in our area. We know that a lot of people have suffered because many of these drillings have been done right close to the homes of these people. In fact, many of these drillings were only a few yards from the homes of Navajo people. The oil company usually comes in with their equipment and do considerable damage, not only to just a vegetation but to bushes and trees as well. Not only are they not careful in working in these areas because some do get out of hand and just work all over and crisscross and once they do secure oil they will have a lot of refuse they just have to run into with available water we have and once that is mixed with water it is harmful to animals, and due to that reason people have lost sheep and horses and they have suffered greatly. I merely point out what has happened to me through these practices. I have lost eighteen head of sheep and one horse that I have been using in a team for my wagon. I just bring to you the part that has happened to me. There are people around me who have suffered far more, so I feel that I am very much aware of it and know these things and that is why I am bringing these out. Also, we have found out the Advisory Committee have discussed this, and I hope they will report to us just as to what conclusion they have arrived at. Then the people in my area are also asking for some of these officials to come out and look the situation over...the Advisory Committee and so forth. That is the way the situation is at the present time. I do not wish to make a long story out of this because the time is limited, but that does not mean that is all there is to it because there is so much more to be done. I am just bringing out the outstanding factors that are involved. I recently came to Window Rock to submit another document to show what is happening, and what the people are requesting, and how they have been hurt. On the basis of that, two of our Tribal officers were sent to make an investigation and make a survey of what is happening. I am sure one or two of these people will report to you as to what they have found themselves, but I hope we will establish positions so we will have personnel to look into the situation and take care of things and that would be a step in the right direction because right now people are suffering because of the development that is taking place in that area. Pipeline companies coming in and destroying good blocks of Tribal land; oil companies coming in and building roads and industry on a good portion of the range land and all in all constructing roads, pipelines, wells and so forth they have established there on so much of the grazing land that that land has been taken away from the

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Navajo people who have been using that range for their stock. The people have suffered for the last seven years from the hands of ranchers as well, and all in all the people have suffered heavily, and right now there seems to be no end to all of this oil industry activity. We know the oil companies have moved in there and the pipeline group have come in and they are now engaged in running another line where they transport workers. They have used three big buses, to transport workers and none of those workers were Navajos. I understand all these workers belong to certain unions and they are abiding by their contract, and the Navajo people have no chance to find employment with these companies so all in all I would say the situation is very bad, and in approving this Resolution it would at least solve some of the problems of the people we are concerned with. Now, we have reckless people who have moved in our area. They drive out without due care because we see them run over sheep and other livestock, dogs and so forth. So we actually need some type of enforcement so that this will not be carried on. We ask for police assistance, but this is not enough, so if we do find people who will take care of these things, then it would at least help and lift some of the hardship that has been brought on these people. I have been instrumental in granting some of these sites to oil company representatives. Usually they come to us to obtain our signatures, and they also have the story that approval has been made at Window Rock and also at the sub-agency at Shiprock and the only thing remaining to be done is to have the Tribal Councilmen to sign these documents, so I go along with them, but now the situation is such that my people have begun to object to this. They say, "Why sign these when they are doing this to us?" But when I try to reason with these officials they always insist on saying they are paying rentals and royalties to the Navajo Tribe at Window Rock, and if the people are asking for money why do they not go to Window Rock Headquarters and obtain that money that has been paid already? This is how things are; and lately I have been very reluctant to sign any more documents. I stress the fact that I represent the people, and I have a right to discuss these things with them, and once I sign these things they never do go and discuss anything else. Now the people do insist that from here on perhaps the better thing to do would be to refrain from signing any of these documents. I feel now that this Resolution is something that would take care of those matters, so I would like to make a motion that we approve this Resolution that is before us.

Mr. Sandoval:

Mr. Chairman, and Members of the Council: I have never had the opportunity to address this group and this is one occasion I think we should say something because this is one subject that pertains to my people very much. I would

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like to ask a question about this Resolution that is before us. It mentions a Four-Corners Area. I wonder if this Resolution would pertain to people who are situated outside the Reservation proper? That is, the people who are scattered in the so-called Checkerboard Area. I wonder when we adopt this Resolution if some of this would apply there? It is true that some of these things are happening over in our area as well. I was going to bring out one point, but that has been brought out by the last speaker. People have begun to blame me for signing some of these requests that have been submitted by different companies, so now we know how the situation is since it has been explained by this speaker, so the same thing applies out there. We find that once we try to establish a place where they would develop an oil well they are not satisfied with just running one drilling, but they usually have three or four, and along with it they build several roadways to it. When this happens that deprives the Navajo people of a great portion of the range land they have been using, so not only that, but some of these companies have built landing strips so that way they use more lands for these places than they have leased for and the Navajo people are deprived of the use, and the people are quite concerned how they will do when some of those lands are used for some of these purposes. People with livestock are concerned. They wish to know what can be done for them. Also, about fifty years ago land had been allotted to certain heirs out there, but nowadays there seems to be no known heirs to these allotted lands and they understand there is money available through this source, but no money can be obtained until it can be proven validly that they are the right heirs to these allotted lands. Just being a relative isn't enough. The last problem the people are asking about. I have no answer for them, that is aside from the subject, but it is regarding lands, and the people have begun to criticize me for granting some of these lands. They perhaps go so far as saying I am getting some sort of return giving my signature, that I am approving these applications and so forth, that is-- for these different companies to build roads.

The Chairman:

I would like Mr. Spaulding to comment on that regarding these off-Reservation areas. The Bureau is responsible to a certain extent because the land is held in trust. What protection can they expect over in that area--the complaint that is raised here and also what is done with the heirship problem? Statements have been made by people in the area that a certain amount of accumulation of money is taken in by the Tribe. I want to comment on that. I have denied that the Tribe is taking any money belonging to individuals on allotted lands. I want our Superintendent to comment on that. There has been no money taken into the Tribal fund of individual property. That is also the complaint from that area.

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Mr. Spaulding:

Mr. Chairman, Members of the Tribal Council: One of the questions is what can be done to protect allottees from companies who unauthorizedly enter the premises. Well, in general, with respect to allotments, the allottee has to consent to whatever happens. He has to consent to a lease or to an easement or anything else. The only action that this office, the Navajo Agency, takes with respect to one of those actions without consent of the allottee is when the allottee is absent, has been absent, perhaps for years. And we take action in his place because he cannot be located and we have tried diligently to find him. We also act with respect to heirs when the Probate has not yet been held. We have to do that because until the Probate is completed some one has to take effective action to preserve assets of the heirs, and we don't act on behalf of minor heirs, but generally speaking, if there is an allotment and the allottee is alive and he is present and so forth and anything that is happening to his land that he does not like and he has not consented to, our Sub-agency Superintendent should be immediately notified and he certainly is in position to give protection. I think that answers one or possibly two of the questions and I am sorry but I don't remember the third one.

The Chairman:

Is that in respect to the money taken in?

Mr. Spaulding:

Now, I believe the other question was in regard to the payments of any lease money that might be taken on an allotment. Now with respect to payment of that lease, whether it would be by bonus or whether it would be by rental or any other money that comes in, that money goes entirely, without any deduction at all, it all goes to the allottee if he is living. If he is dead, it goes to his heirs. None of it goes to the Tribe. No money whatever from an allotment goes to the Navajo Tribe. It goes to the owners, either the heirs, or the allottee himself. Oil companies, uranium companies and lessees generally pay money through the Individual Indian Money Account. That causes delay in payment to the allottee, but it does something that is really good. It makes a good firm record. You absolutely know where you are. There is no question about it because the records have to support the payment. Now I have occasionally someone come to me and say, "I did not get all my lease money," or another, "I did not get all my money from this right-of-way that was coming to me. This was my grandfather's allotment and I inherited it, but when I look it up there would be twelve other heirs. So once in a while we

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have those misunderstandings--perfectly natural among our people---that they did not inherit all the allotment but they just got a small interest and we have to remember that when we get these complaints, but we can always go to the records and always show a man what he does have coming to him, but I do want to state again with respect to allotments that none of the money derived from leases of any real estate or any real estate action, that none of that money goes to the Tribe, that it goes to the present owners of the allotment whether it is the original allottee or the heirs.

Mr. Gorman:

Mr. Chairman, Members of the Council: I wish to make a few remarks in regard to the Resolution before the Council. I would like to make a change in this Resolution, and I want to make a little statement before I recommend the change. I wish to make a few remarks in regard to this Resolution. As you know the Resolution only states in the "Now Therefore Be It Resolved" Section, the "Four Corners Area." It is true what Mr. Spaulding has just stated that the Navajos have allotments in the eastern part of the Reservation, and also in the Canoncito, Puercito and Ramah areas. But not all of the lands in those areas are allotted. Of those lands many are still in the trust status. That is, they are lands in the same status as the Reservation. Therefore, application to protect these people in those areas from oil companies is quite prevalent where these Navajos are unprotected. We know there is oil over here in the eastern part of the Reservation in District 7 and we know many of the Navajos are getting individual money from the oil companies for their leases, but there are these Navajos that will be eventually trampled out there. They are only depending upon the livestock and depending upon the range for a livelihood. The eastern Reservation is checkerboard. It is like a quilt of many colors, Indian country and white country mixed together, so what the Navajos are experiencing in the Four Corners area, the kind of treatment they are receiving at the hands of the big oil companies can be nipped before it starts to grow in the eastern part of the Reservation. We want to get ready for it, and I want to recommend this change in the "Now Therefore Be It Resolved" section that Number 1 should read this way: "Additional and off-Reservation areas where Navajo Indians reside." Let me read this again:

"1. Additional portions are hereby created for stationing of Tribal personnel in the Four Corners and other areas on the Navajo Reservation and off-Reservation area where Navajo Indians reside."

That would be my amendment to this Resolution. I would

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like to ask Mr. Bill Hatathley if he would accept this amendment to his motion?

Bill Hatathley:

I agree with the amendment that has been suggested.

Mr. Gorman:

Well, Mr. Chairman, I second the motion that we approve this motion the way it is amended.

Dick Beyale:

Mr. Chairman, and Fellow-Councilmen: I did have some statements that I would like to present, but when Mr. Lee Tom presented his statement these very same things that I had in mind were very ably expressed by Bill Hatathley and Mr. Sandoval, so I would just like to say this thing: The situation that has been reported in the Four Corners Area is also evident outside the Reservation, possibly towards the east. We know eventually the people will suffer very much like those in the Four Corners Area. We know the oil and gas developments are taking place right now in the Huerfano Area, and go on to the Chaco Canyon and eventually they will come to the Reservation line itself, and while that has not taken place as yet we know that damages have been done in those areas where developments are now taking place. Damages have been done to the surface of the land and people are concerned about about what they are doing. People that have sheep they have so much area they use for what sheep they have, but if they are to give up land for roads, pipelines and other developments that means that much less range for their use. It is true that these companies do build pipelines and other things across all types of land, Federal, allotted, and others, so really we don't know who is being hurt in some of these cases. Then, too, many of these companies are seeking water, and they usually go to what available water we have in the small tanks that we have. They haul away a great amount. Usually they come in tank trucks that hold as much as four thousand gallons. Whenever they appear they do not ask the people to use this water to see if that would be permitted but they just help themselves so that something should be done about such practices. I asked one of the field officials about this and he said the Federal Government has resolutions prohibiting these things, but no enforcement at all, and not only do we suffer from these oil companies and others who come on this land, but we also suffer from insects that always create a great amount of new species and do considerable damage to the grass we have, so all in all we do suffer a lot from several sources. I would like to state here that I fully agree with the amendment

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suggested by Howard Gorman. I hope we do approve this Resolution as he has suggested.

John Perry:

Mr. Chairman and members of the Tribal Council: About the things that have been happening in the Four Corners Area. It has been explained that many of these companies are just establishing roads themselves without any authorization. I wonder if there was a prior agreement which gave them a right to do that? I would just like to know that. I know that has happened over in the Mt. Taylor Area where some ranchers had leased some land to oil companies and one particular rancher had leased a fenced-in area that he had to an oil company. An agreement was made whereby only one road would lead to these leased areas. That agreement was carried out and no damage resulted whereas on the other hand another party made another similar agreement but no mention was made of having only one road leading to the area. In that case the company had made several roadways which caused considerable damage. When this was brought to their attention it was explained those roads were necessary in order to make the development in a hurry, so I just wonder what has happened in our case. Did we make some definite agreement whereby these companies would have a right to make all these roadways? Also, I would like to ask if Mr. Ned Hatathli and Mr. Hubbard had several meetings to this effect about the problem of allotted lands. Now about 49 years ago lands were allotted to Navajo people giving them surface as well as mineral rights. Then about 20 years ago many allotments were granted but this was only for the surface rights. So an enactment made 30 years ago said even the white people cannot lease lands completely. They cannot get the mineral rights. I am wondering about whether we have made some agreements which would give some of these oil companies the right to establish roads wherever they wished.

Leo Parker:

Mr. Chairman and Members of the Navajo Tribal Council: There is one outstanding problem that I have been trying to say something about since yesterday. Since we happen to be on the subject yesterday and again today---but somehow or other I have not been given the opportunity to make my statement, and can no longer stand it, and I'll have to do this. Mr. Chairman, the discussions about some of the allotted lands over in my area---we had great problems with respect to such allotted lands. There were lands held by Navajo people which were taken away from them. That had been done by a previous Superintendent, and he had an assistant--Mr. Hoska Cronemeyer was along with them---to go through some of these procedures and at the time people were promised other lands that they may

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obtain as an exchange, but that has never happened, so now I am still after this promise that was made. Somehow or other we have a right to ask for it but all we are told is that we have no deed at all. That is, we have no right to have some of these lands that were set up for us originally. There was no question about it when these were set up for us, but now they stress the fact we have no right to them. I am very much concerned about this and I hope that something may be done for those people, not only for myself but there are a lot of people involved in this. Recently, one individual, a Mr. Goodluck by name, asked me for land and we could not negotiate because they have insisted that they have no longer any right to these lands that formerly belonged to us.

Edward Manson:

Mr. Chairman and Members of the Council: This situation that speaks about the situation in the Four Corners Area-- that means that the area involved is covered by the States of Arizona, New Mexico, Utah, and Colorado at the Four Corners point, but we just say 'of an area.' We should say just how big of an area we are talking about. We know the majority of the Navajo people are occupying lands in Arizona, but how big of an area do they speak about when they say "The Four Corners Area?" Also, if we are to establish these positions so that these new personnel could contact and by a liaison between the Tribe and the various oil companies we may have certain regulations that we can go by we may not have the necessary regulations which would support some of our negotiations. They usually have regulations that they abide by and that are supported by them which is detrimental to the Navajo Tribe. I know this, because that is happening over in the Glen Canyon damsite area, so perhaps that should be considered a little further to see what regulations we would have that we can use in negotiating with these people and making enforcements in this area. Perhaps that should be brought to the attention of the Advisory Committee so that they can look into it and see what regulations we have so that we can enforce some of these things that we are trying so to seek.

The Chairman:

We will now recess until one-thirty.

(Whereupon the meeting of the Tribal Council recessed at noon, December 13, 1957)

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The Chairman:

Will you please call the roll?

(Carl Beyer called the roll. 33 members were present)

The Chairman:

We have a quorum so we can proceed with our Council work. There are two questions that need to be answered before we can act on this Resolution. The first one is a question whether we have in our contract access roads and how many are there finally permitted when oil companies get on to the Navajo Reservation. The next one is--we have no regulation to keep non-Indians off the Reservation when they are in trespass and I would like Mr. Huerta to answer those two questions at this time.

Mr. Huerta:

Mr. Chairman, and Members of the Navajo Tribal Council: The first question is to what is provided here where it says "road building", I would like to read you a portion of the lease that is presently Form 5-157. It is a standard lease form for oil and gas issued by the Department of the Interior and it reads in part as follows:

"containing-----acres more or less, together with the right to construct and maintain thereupon all works, buildings, plants, waterways, roads, telegraph and telephone lines, pipe lines, reservoirs, tanks, pumping stations, or other structures"

And here is the key word--

"necessary to the full enjoyment hereof for the term of ten years from and after the approval hereof by the Secretary of the Interior and as much longer thereafter as oil and/or gas is produced in paying quantities from said land."

There is a provision in the present lease form where they can construct roads and the only qualification is that they be necessary to the full enjoyment of the lease that is granted to them.

Mrs. Wauneka:

Mr. Chairman and Members of the Council: There was one word in the reading of the material that has just been read that really bothers me. I just cannot see why it is in

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there. I thought, and my understanding was when these oil companies moved in our land they are in a business venture and that such a venture is to secure oil and make the necessary development. But whereas if we are to interpret this "enjoyment" I take it, it means that they can do almost anything that pleases them. It goes so far as that, so maybe the best thing to say here is--rather than use the word "enjoyment", say some other thing, such as "production" so that it would eliminate that word "enjoyment." Maybe it is because of that word that these people are "enjoying" themselves running all over these people.

The Chairman:

Is that generally the form used in other fields in connection with oil leasing? Is the language the same?

Mr. Spaulding:

Mr. Chairman, Members of the Council: I interpret the word "enjoyment" not necessarily that it makes everybody happy. They might enjoy bringing liquor on the Reservation, but they are prohibited from that. The facilities they work with in getting the oil out of the ground, in order to do that they can enjoy the profits from it and you do, too. But I do not have quite the same interpretation. I would think maybe some other word would be better but that is the standard form used by this Bureau. What language is used in other private leases, State leases, and so forth, I just do not have that information.

The Chairman:

It appears this is the Bureau of Indian Affairs oil and gas mining lease on Indian Tribal lands, so it is printed like that. It is not something that anybody from here put in there. It is a standard form so that part--the technical meaning of the word "enjoyment" does not mean literally to have a party. I believe it may be involved, but inasmuch as we are sending up men to look into these things when we write out leases it should be well to put a sentence in regarding access roads and one a little further than the first one went. I think such intention should be definite. But to me that has been completed here and I have asked the legal department if we can do that or should we adhere to the "enjoyment" part of the standard form.

Mr. Huerta:

Mr. Chairman. If a company is found to be building more

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roads than are deemed necessary, I think it would be in order to make them pay damages and discontinue the practice. It says here in quotes "any roads that are necessary to carry on their activities". In certain leases it would be conceivable that one or two roads would be all that would be necessary and in others they would have to have not more than two, three or four depending on the terrain and the number of wells and I think the answer to the question is we intend to have individuals out in the field following the activities of companies closely, and thereby be in a position to recommend whether they are abusing their rights set forth in that lease.

The Chairman:

Another complaint here that should be inserted in here that Dick Beyale mentioned--that the people are helping themselves to wells in the area when there is a shortage of water in the area for livestock and domestic purposes and which makes it hard on these people, without asking the privilege of getting a permit to use that water. They have a large tank that they fill up and the other people who live in the area have to wait until the next water comes up. James Oliver brought me a note that they are not too careful about the dead people who have been buried there for years, and getting in contact with graves they destroy them and excavate around that and that is another disturbance we do not like and that should be inserted in our contracts.

Mr. Huerta:

Mr. Chairman: We have a Resolution which is CN-60-56 that provides for exclusion of trespassers from the Reservation. I would like to read to you the paragraph here which may refresh your memories on some of your agreements. By the way, Mr. Wolf checked and found it had been approved by the Commissioner who made very slight recommendations to be inserted, but the first paragraph of this Resolution reads as follows: "The Navajo Tribe has authority to exclude non-members from Tribal land, except where such members are present under authority of Federal law." It mentions in the second paragraph that this is also establishing the procedure to be followed, and it also provides that the Chairman be notified and take the matter before the Advisory Committee and after those efforts prove fruitless, for a procedure whereby the matter is put in the hands of the General Superintendent in the "Resolve" clause which lists sixteen clauses which may be used as grounds for exclusion of non-members.

The Chairman:

I think it might be well to supply that ordinance to the general Council so that every member can have a copy so

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that people who object to non-Indians we can tell them that we have a Resolution covering that very thing so that they will know it is official and I know in the Checkerboard Area the language is very bad from over there, and I have heard statements over there that the General Council has no authority so they should have a copy of this Resolution to show the Tribal Authority.

Mr. Huerta:

I would like to make two or three observations. One is the Resolution reads "Tribal lands." It does not say whether it is within the Navajo Reservation. It is Tribal lands in general. Another point is that Mr. Gorman brought to my attention that this is a Resolution you gentlemen considered and passed back on November 2nd of 1955 and therefore it is probably applicable to the Navajo Reservation and it affects all individuals except members of the Navajo Tribe. Another point I would like to stress is that we are dealing with civil rights of individuals and procedures were set up in order to protect individuals from losing any personal rights they might have in participating in hearings before the Advisory Committee and taking them before the Superintendent if they again fail, and it is a matter of just calling them in, and if the individual objects having the Law and Order pick the man up and take him away. He is provided this protection although it is pretty strong that he would eventually be ousted if the regulations or grounds were stronger, but he still has certain rights.

The Chairman:

One other thing I would like to bring before you was that I think the Bureau and the Tribal Staff can see if we could find ways and means to protect our people in this connection, where oil is concerned in the Checkerboard Area. It has been brought to my attention that even the Gallup officials and County officials are busy trying to get the Navajos in that area to consent to have an oil prospector come into their land and they feel these people can go in there among the Navajos to accept the prospector who goes in there for oil and that must be the reason that they do not get the full amount of money that they should get from the oil in the way of rents or bonuses. Some go-betweens are getting part of it and I think we should take it upon ourselves to see if that is actually true.

Ned Plummer:

Mr. Chairman, and Members of the Tribal Council: I have a question here based on the amendment that was suggested on this Resolution that is before us. Originally the Resolution

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contended that it would apply primarily to the Four Corners Area, but since the amendment has been made it now applies not only to that particular area, but elsewhere, but yet in making the amendment it has failed to consider changes in the appropriations called for. Also, you note that under the

"Now Therefore Be It Resolved" section we still have a word in there stressing the Four Corners Area. I think this is not quite in order in view of the amendment suggested contrary to that. Perhaps we should clarify these points before we act on it.

Mr. Gorman:

Mr. Chairman: Ned Plummer's question deals with the next page of this Resolution. This page here I was going to recommend that we increase the amounts since we are going to use more men for this purpose of looking after the oil companies for the Navajo Tribe. But, Mr. McCabe advised me that the amount covered on the second page of the Resolution is sufficient to take care of this fiscal year which is already six months away, and then in the budget meeting if the other areas are similar to the Four Corners Area it will be applicable to other areas within the Reservation and off the Reservation where there are Indian lands so at that time we will set up enough money to cover the entire twelve months' operation, and we'll know better by then, and that is the reason we would not bother changing the amount. Does that answer your question?

Ned Plummer:

I directed my question to the language where officially it has to expend the appropriations just for the Four Corners Area.

Mr. Gorman:

That Number 3 paragraph of the "whereas" clause is current. That is right now. The trouble is up in the Four Corners Area. It is all right to leave it that way, but the other part is where in case trouble starts in other areas where Navajos live off the Reservation.

The Chairman:

I think something should be included in there to take care of the Glen Canyon situation that Ed Manson told us about. People are being overrun. The Glen Canyon workers are not too careful about trespassing over there. I think contact with these people might do some good, but I see in the first paragraph under Paragraph 1, it goes with mining, oil and gas,

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and other activities, so I believe we can use this for the same purpose.

Mr. Henry Taliman:

Mr. Chairman and Members of the Navajo Tribal Council: I would like to give an illustration which we have had, an experience for the last four or five years to deal with a certain company that has done some work within the boundaries of the Reservation. For instance, the El Paso Natural Gas Company came into the Reservation. Apparently they must have some ruling to follow. Other than that they would never have had permission to run the pipeline through the Reservation. So that ruling they had followed and they supported that ruling. Now, in this instance why could not that same ruling be applied to gas companies or anybody else who came on the Reservation to do any kinds of work? So, in that manner, that ruling, that they followed, any other people who had any other work on the Reservation that could have been followed by any other company, these companies or anybody else. Under this illustration that I have mentioned, the El Paso Natural Gas Company must have had some rule to follow. If they did not have any kinds of rule to follow, maybe that grant or permission of running the pipeline through the Reservation, maybe they would not have had that permission whereas they were required to build the bridges or even to build a little tank; destroy even one tree or blade of grass in the right of way they made an agreement with the Navajo Tribal Council, the Navajo Tribe, and they put up advance money, and if they did not follow that rule they must pay that damage. I know they estimated the damage something like \$175,000 if they did not follow the rule; and after they finished this line they were required to level all the road that they had destroyed. They leveled it off and replanted the grass seed. Now that is the question. Why could not these other people have been required to do that? Do they have some kind of special privilege? I would also like to state, Mr. Chairman and Members of the Council, that this procedure is something very important. We must have some kind of protection in order to satisfy our people in certain areas where it has been mentioned. Now, if these appointees are being made, what kind of a rule are they going to follow? What kinds of procedure are they going to follow? If they do not have any ruling or procedure to follow it would not be necessary at all. It may be the same thing all over. Just as I mentioned the illustration about El Paso Natural Gas Company--they followed some rule and why could we not apply the same rule to anybody who comes on the Reservation to deal with the Navajo Tribe? If these appointments are being made and if they do not have any definite rule to follow, any authorization to go by it will not be effective at all. As I stated with the illustration that they put up advance money, something like \$175,000 to

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run the pipeline through the Reservation. They made an immense fund. If they did not follow that rule we would get that money. If they did follow that rule they got their money back. Then another thing--after they finished the pipeline they leveled the ground and planted the grass. It is just things like that, so we must apply some kind of a rule to follow. If we do not we just have not got any principle. I would like also to state this Resolution will be effective. In the meantime we must try to approve this Resolution. At the same time I would like to ask the legal department to go ahead and make that ruling so that they can be effective to bring to gas companies or any other people destroying the grazing land where they are participating. Thank you, Mr. Chairman.

Paul Begay:

Mr. Chairman, Members of the Council, Ladies and Gentlemen: I have been thinking about this problem and I have the following statement I would like to present based on what is before us. Mr. Howard Gorman has indicated he had conferred with Mr. McCabe about utilizing this appropriation that is being asked. He said he was informed that this is for a tryout for a period of six months only. What if this tryout proves not effective? Then what? On the other hand I know that we have regulations that could easily be applied in this case---grazing committee members at the present time utilizing these regulations. It states anyone that is harming vegetation and so forth or careless will have to answer according to these regulations that the grazing committees have. I think perhaps the best procedure is to call in these oil companies; call in their representatives and let them sit down with the Advisory Committee and talk this matter out. In other words, we could present them our problems and plead with them and perhaps they may heed that plea. It may prove very effective, and thereby it will save us appropriating \$28,000. I feel in creating these two positions that it is useless, that it is just a means of wasting \$28,000. I think what we need to do is to discuss this matter with these officials, company representatives and see if we can arrive at some solution. That is about all I have in mind that I would like to present at this time. It seems like if the Navajo people were blamed for causing damage to lands belonging to the white people the matter is brought to the people immediately. Now why cannot this be done the same way? After all, I believe white people and Navajo people are all the same and all should be treated alike.

Frank Bradley:

Mr. Chairman, Members of the Council: As I read this Resolution, the more I read it the more complicated it gets

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to me trying to get the meaning of the various areas mentioned here. The amendments made by Mr. Gorman and in the "Resolve" clause, and now we read the Number 1 where it says, "Whereas there are many problems directly affecting the Navajo Tribe and the Navajo residents of the northeastern portion of the Navajo Reservation due to the increase in mining, oil and gas, and other activities in this area." It just mentions certain areas all the way through that. The way I feel is that we are not talking about our Tribal land. It is just talking about this portion of it. I would like to see this Resolution drafted where it would say "all Navajo land."

The Chairman:

We have the first sentence which should read--strike out "of the northeastern portion of the Navajo Reservation". That will make it Reservation wide. The same is true with the first paragraph of the "Now Therefore Be it Resolved" clause where it reads: "Additional positions are hereby created for stationing of Tribal personnel in the Four Corners and other areas of the Navajo Reservation and off the Reservation area where Navajo Indians reside." That would be my suggestion, if some one would move and have it seconded to approve that change in the first paragraph; then in the second paragraph change the words--"of this area"--and put in--"of these areas." I think that will straighten us out.

Mr. Gorman:

Mr. Chairman: We have already made a motion to approve the Resolution with the very amendments we made, Bill Hatathley and I, but if those fellows who object to certain phrases of it, if they will make a motion to change it some more then we can go ahead with this. Furthermore, it is immaterial what we do with the "Whereas" section of the Resolution. That is just stating what is going on and what the conditions are. There is trouble in the northeastern and in the Four Corners Area. That is what we are talking about. We do not really need any addition to the "Whereas" part of it. But we are anticipating more trouble and that is the reason why we made these amendments in the "Now Therefore Be It Resolved" Section, so you fellows go ahead.

Grey Valentine:

Mr. Chairman, and Members of the Council: I am still not quite satisfied with the discussion we have been having. I do not know about the Resolution or how it would do or what effect it will bring, but it is a thing that we are now trying out; but basically I feel that a mistake has been committed from the beginning--that is, to allow such a wording that

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was read to us in the forms that were used by the Bureau. That is, the wording is such that it leaves room for a lot of these companies to carry on these activities illegally. In other words, we have almost no recourse because it is all in the provisions of the lease. I think the Bureau of Indian Affairs is responsible to look into these things and what is considered in these things before approving a lot of these leases. I thought they were here to help us maintain due care of the use of the Tribal lands, and the proper utilization of Tribal lands. I know this because many of these officials from the Bureau of Indian Affairs are always getting after the Navajo people saying that stock are causing damage to range lands and so forth. Yet, how can they stand for damages that are being done to the range by these oil people? There seems to be no consideration on the part of the Bureau of Indian Affairs. I think they should try perhaps to meet with these representatives of different oil companies to discuss this matter and find a solution. I think it is due to these bad wordings that has caused some of these things. So, since they are always negotiating with these oil companies and have occasion to meet with them, perhaps they can bring some of these out and work out a suitable solution.

Roger Davis:

Mr. Chairman, I would like to make a comment--- Some of us are not clear on it. About the first amendment of Howard Gorman we understood that all right, but it may be only a suggestion of the Chairman to delete some of those words in the "Whereas" clause. We want to do justice to the Resolution and want to be straight on it, and I think the thing to do is to work over the whole thing and reword the whole Resolution and put it before the Council and that would be the only way we can do justice to the Resolution. Some of us feel the Resolution is very important, and I think there is a Tribal plan on doing this for our own good. I think there is some mistake made on the part of the Indian Bureau in giving the full benefit to these oil people to go in there and whatever they do to enjoy themselves. That is where the whole thing is, and if there is a mistake we would like to have it corrected, and I think it is the Tribe's duty to correct it somehow. That is what we are after, I believe, and therefore I think this Resolution needs to be worked over and reworded and then we'll know what we are doing.

The Chairman:

I would like to ask the question of Mr. Young or Mr. Spaulding. That portion of the "Resolve" part that has been amended, and the first one is also just a suggestion on which no action is taken. The amendment in the second part, would

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that carry all the way. Or, would we have to add the other to carry the thing through? We have one more Resolution come before us, and while we are working on that we could have this rephrased. It will take about an hour.

It was our hope to recess at three o'clock, but now you want to stay until five o'clock. However, that is your pleasure.

(Mr. Spaulding conferred with the Chairman at his desk)

The Chairman:

Mr. Spaulding says the "Resolve" clauses were amended, and it would take care of the "Whereas" clauses, but it might be well to change the "northeastern portion" to try to include in there the whole Reservation, but the ruling part is the "Resolve" part. We can leave it as is and act upon it.

Anna Wauneka:

Mr. Chairman, Members of the Council: Perhaps we are doing the right thing by adopting such a Resolution as we have before us. However, I do not believe that will solve all the problems. I feel, too, that if we are to go this far, the Bureau of Indian Affairs should make the necessary changes in the lease forms they are using. This is because they have provisions for allowing these companies to do many of these things. If they could correct that, and by having this Resolution also we'll have an effective method of stopping a lot of these careless activities. Also, it has been brought to our attention that sheep and goats belonging to Navajo people have died because of the damage that has been done to the water supply. I just wonder where the people that herd the sheep were when these things have happened. Then, also, it may be the fault of the people themselves. I think considering all these things both sides are at fault. Also, if we are to establish these provisions and employ young Navajos to act or to contact for the liaison work they may be reduced to the caring of sheep for people, perhaps keep the sheep from getting into these polluted water supplies. So, if the Bureau could make the necessary changes in the lease forms using, perhaps eliminating the word "enjoyment", many of these problems would be solved. It is like trying to mix grease with water. That is, us making a Resolution with no changes being made by the Bureau on their lease forms.

The Chairman:

I would ask Mr. Spaulding to tell us about the form we are using here. It does not apply to Navajo land alone.

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The Navajos have sheep and that is a bad part of it, that this form does not fit too well on our land. Other people who do not have sheep they do not run into this bad trouble, so it would take an Act of Congress to change the wording. It is technical, this word "enjoyment", and Mrs. Wauneka has said twice it gives the oil people too much room, and they take advantage of us. How much of a problem would it be to change this and put a new word other than the word "enjoyment"? It doesn't mean that you go on a picnic on our land, but apparently they are doing it with their tools and tractors, but we could say this with other words. Would it be too much of a problem to change it?

Mr. Spaulding:

Mr. Chairman and Members of the Tribal Council: Very briefly what the situation is regarding this form, this oil and gas mining lease form, Tribal Indian lands, that form is currently under change. That is, they are studying it now with the view of coming up with a new form and perhaps this is a good time for the Navajo Tribe to suggest any changes that the Tribe might like in the form. I am sure the Washington office would welcome any criticism or suggestion that the Tribe has.

Since we are talking about damage here, you know with each lease goes a bond. All these companies are bonded. Many of them have nation-wide bonds which cover all their leases with the Federal Government and if there is damage which the companies have not paid, they can be held responsible under the bond, so we have a check there. Now, the other thing I would like to briefly say is that the policing of the field work on oil and gas is not under the Bureau of Indian Affairs. I am not supplied with a staff to police the oil fields and to require compliance with the companies. That is the work of the Geological Survey. Mr. Littell mentioned that yesterday afternoon very briefly when he spoke of the man at Farmington who was supposed to do that work and I wanted to make that clear, that while the Bureau has a tremendous interest in having that policing done, actually we are not authorized or required to do it under the Secretary's regulations. I think Mr. Huerta could probably give you more information on that. One of the items they are supposed to do is police surface rights of Indian land and take up the matter of costs and damages with these companies, and see that their operations are done in a workmanlike manner, and they have control over this policing business and they are supposed to do a lot of things, so I thought we had better get that out here in the open today and as Mr. Littell already told us he is putting pressure on the Department of the Interior to see to it that the Geological Survey does what it is supposed to do in respect to the protection of your

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lands.

The Chairman:

Will the Superintendent assist us in reporting that to the Geological Survey?

We will now recess for ten minutes.

(Whereupon at 3:20 p.m. the meeting of the Tribal Council recessed for ten minutes, December 13, 1957)

The Chairman:

We will come to order now. Will you please read the Resolution?

Manuel Begay:

Before I read this Resolution I would like to call the Council's attention that a word has been left out on page 2 under item 2, next to the "Liaison Personnel"---where it says "on and off the Navajo Reservation. insert the words "maybe advanced," after the word "Reservation." Now the Resolution:

Manuel Begay: (reading)

"Creating Positions to be Filled by Tribal Personnel to Conduct Liaison Work between the Navajo Tribe, Navajo People, and various Oil and Gas Companies:

WHEREAS:

1. There are many problems directly affecting the Navajo Tribe and the Navajo residents of the northeastern portion of the Navajo Reservation due to the increase in mining, oil and gas, and other activities in this area, and
2. The development of this area has brought in the past and will continue to bring in the future great benefits to the Navajo Tribe and its people, and
3. It is of direct interest to the Tribe that an orderly growth take place and that the lives, property and other interests of the Navajo Tribe and the Navajo residents be properly protected, and
4. Experience has shown that unless we have our own employees which are under the direction of the Tribal Administration, the present great problems cannot be completely solved, and

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5. After careful consideration of these problems, the Advisory Committee has recommended to the Tribal Council that this Resolution be given favorable consideration.

NOW THEREFORE BE IT RESOLVED THAT:

1. Additional positions are hereby created for stationing of Tribal personnel in the Four Corners and other areas on or off the Navajo Reservation where Navajos live.

2. Division 01 entitled General Administration of the Navajo Tribal Budget for Fiscal Year 1958 be and it is hereby amended and additional funds are appropriated as follows: Section H entitled 'Liaison Personnel

.1 Personal services -----	\$15,000
.17 Travel and Per Diem-----	700
.140 Equipment	
2 vehicles-----	\$4,000
2 two-way radios-----	1,800
Other-----	1,000
	3,800
.250 Contingencies-----	5,000
	<hr/>
	\$20,000

The Bureau of Indian Affairs is respectfully requested to expedite approval of the appropriation contained herein so that the present activities in the Four Corners and other areas on or off the Navajo Reservation may be advanced in an advantageous manner to all concerned.

The Chairman:

I asked the man who made the motion if these amendments are accepted by him and seconded and the answer is yes, so I will put the question to you to vote. All those in favor of this Resolution, please rise.

(68 approved)

The Chairman:

All those opposed

(None opposed)

The Chairman:

We have another Resolution which I will ask Mr. Platero to present. This Proposed Resolution has to do with the

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extension of additional facilities on the Navajo Reservation, but due to other activities for defense purposes taking over and the fact money appropriations for expansion would not be forthcoming, there has been a warning already that no part will be received for expansion purposes and this is what the proposed Resolution is about: (reading)

Proposed Resolution
of the Navajo Tribal Council

Memorial to Congress and the President requesting continued compliance by the United States with its treaty obligation to provide a school room and teacher for every Navajo child between the ages of six and sixteen.

WHEREAS:

1. Article VI of the Treaty between the United States of America and the Navajo Tribe of Indians made at Fort Sumner, New Mexico, on June 1, 1868, ratified by the Senate on July 25, 1868, and proclaimed by the President on August 12, 1868, 15 Stat. 667, provides as follows:

"In order to insure the civilization of the Indians entering into this treaty, the necessity of education is admitted, especially of such of them as may be settled on said agricultural parts of this reservation, and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is strictly complied with; and the United States agrees that, for every thirty children between said ages who can be induced or compelled to attend school, a house shall be provided, and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as a teacher.

"The provisions of this article to continue for not less than ten years."

2. Only in 1955, through the appropriations of Congress, and the efforts of Commissioner of Indian Affairs Glenn L. Emmons, a school room and teacher were available for each Navajo child between six and sixteen years of age, and the obligation of Article VI was complied with for the first time.

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3. Due to the steady increase in Navajo population, and to the fact that many of the present classrooms for Navajo children consist of trailers, quonset huts, and other temporary structures, considerable additional construction of school facilities is necessary for continued compliance with Article VI of the Treaty of 1868, and such construction has been planned and scheduled by the Bureau of Indian Affairs over the next three fiscal years.

4. The Education Committee of the Navajo Tribal Council has been advised that the executive branch of the Government may be considering curtailment of this planned expansion of Navajo educational facilities because of the need for funds for national defense.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council respectfully reminds the President and Congress that the provision of a school room and teacher for every Navajo child between the ages of six and sixteen is not a discretionary matter, but a solemn legal and moral obligation of the United States under a duly ratified treaty, which is still in effect and is a part of the supreme law of the land.

2. The Navajo Tribal Council desires to remind the President and the Congress that the present defense crisis may be due to inadequate education of the American people and wisdom should dictate the urgent necessity for adequate appropriations for Navajo education.

3. The Chairman of the Navajo Tribal Council is hereby directed to transmit copies of this resolution to the President of the United States, the President of the Senate, the Speaker of the House of Representatives, the chairman of the House and Senate Appropriations Committee, the Congressional delegations from the States of Arizona, New Mexico and Utah, and the Secretary of the Interior.

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Dillon Platero:

Mr. Chairman. Members of the Tribal Council: Let me give you a brief background as to why we have asked for this Resolution. You know for a fact that for a couple of years or more we have been all over the Reservation telling you about the plans that are being made for expansion, and the various school sites, and the various existing facilities, and what additional programs are planned for that. We heard this through the grapevine from various people that because of the defense project that a curtailment of funds may be necessary as far as the school construction program was concerned. Also, let me briefly go over each section here in the WHEREAS clauses. Now, take number 1. Now there it calls attention to the Treaty obligation of 1788 which says that a classroom and teacher will be provided for every Navajo child and then in paragraph 2 of the WHEREAS clauses it brings out this fact: It draws attention to how this has been met, what has been done, and what type of facilities such as trailer schools, sub-standard facilities, and temporary facilities and the inadequate facilities and also new facilities that were put up. That is how these problems were met. In number 3 of the WHEREAS clauses it brings out the plan which has been made by the Bureau of Indian Affairs for three fiscal years, through 1951, and I believe this roughly calls for \$50,000,000 of construction program over that period of years. Then in paragraph 4 it points out the need for that appropriation and then, of course, we also say that in paragraph 4 we were advised by people in authority that curtailment of these planned expansions is being considered. Then we go into the WHEREAS clauses and it brings out the fact that we are authorizing the Chairman to send this Resolution, if passed, by the Council, to the people who are mentioned in the Resolution such as the president and other people mentioned there. What we want to do here is to have the people think twice before they act because if this construction program is cut off here and we do not get any more school buildings built, we are going to be in the same fix we were in in 1950 or somewhere back there. We are going to be needing space and at some time or other there will have to be another crash program and it will mean less opportunity for education for our Navajo youngsters and this would mean our Navajo youngsters would be going to school in these same sub-standard, temporary and inadequate facilities in many places. This we don't want. This is what we are trying to block with this Resolution. We hope that these people can think twice and maybe our appropriations we are asking for, the expansion we are asking for can be met. We prepared this Resolution after hearing about the conversation that was being made to curtail some of the construction program for the building of schools on the Navajo Reservation, and we have consulted with the Bureau of

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Indian Affairs and maybe Mr. Spaulding may have something to say on this Resolution.

Mr. Spaulding:

Mr. Chairman, Members of the Tribal Council:
Actually I have no authentic information relative to this cut-back in funds. I do not have a slip of paper that tells me any directive as to what is to be done. Perhaps the underground information is correct. I believe it is, but, at least, I do not have that information. I will comment as Mr. Platero asked me to on this proposed Resolution assuming that the information available or that will be available says there will be this kind of cut-back in appropriations. I will comment on that basis. I just wonder about this kind of approach. To me it is sort of "old-hat" to hold on to this thing of a ninety-year old Treaty. I wonder if anybody is going to listen to it very much. I know what it says, but it is not a very popular approach, and then I am deathly afraid that you might in a Resolution plant one thought in the mind of people in Congress or the President if you send it to him, and that is my reaction, and that is that the Navajo people in a time of crisis are more interested in their own affairs, schools and so forth than they are in protecting the whole nation, the United States, and I am a little afraid of that creeping in because I had that kind of reaction myself when I read it, that it might be interpreted that way, and I know you do not mean it that way. Well, across the years, I have found that a teaspoonful of honey will attract more flies than a barrel of vinegar and I wonder and I honestly believe that the Navajo Tribe could make the headlines all over this country if it came out in the Resolution and said: "We, the Navajo people, are citizens of the United States and we appreciate the citizenship in the great country that we live in. Therefore if it is absolutely necessary to use the money that was planned to be used for the education of our children for National Defense we think that is the way it ought to be used, but we think it ought to be absolutely necessary for the protection of our lives and the lives of our children in an absolute emergency-- that we are that bad off, but on the other hand we would like to point out that a very fine start has been made here; that our children are entitled to education as well as the other children in the United States, and we hope ways can be found where the needed defense of our country can be taken care of and at the

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same time you can continue to help us to carry out what we think is a moral obligation of the United States to provide adequate educational facilities.

So it is a question of this psychological approach. I have just the feeling that the approach I am talking about here is a pretty good one, and I have no criticism or anything about what has been done on this Resolution here except I think some other approach might get Congress in a mood to say, "Here is a great Navajo nation, patiently willing to sacrifice if it is absolutely necessary, but still wanting their children educated. Maybe it would put the Congress so greatly on the spot that they would be ashamed not to give this money for the new school facilities. Thank you a lot."

The Chairman:

From what our Superintendent has said, his assistant has given me a shorter form of Resolution which might just take the place of the one that has been designated. Our Superintendent has stated that the President, Congress, and other members of Congress might misunderstand this, and he thinks that should be safe-guarded. He says this matter of the Navajo nation is sort of a selfish feeling that they would think of National Defense second-rate. That might be the thought of Congress. So it appears that might be true. It is something that can replace it, and he puts it in a different form. We have two things in the mind of the Navajo Tribe. First of all we are fully aware of the defense that is so important and necessary. We will have that one hundred percent. We will also have the education of the children who have been designated and will be designated additional facilities, but due to curtailment of expenses of the program we will have to look towards Congress and the authorities in Washington to weigh the two important problems that they will look at it with a kindly feeling that here is just something as important as defense, and that Congress will evaluate our feeling, and that they will take that into consideration for us. It does not name anybody, and it goes to show that these are our feelings, and we are willing to sacrifice, if necessary, particularly when defense of our land is necessary. So rather than be misunderstood I feel that something like that should be undertaken by the Council, rather than to readily present a Resolution that might have an unfavorable reaction from the Congress, and since the proposal has been made, it seems also we have not had an official communication definitely as to what is meant by possible curtailment; and it might be well for us to

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wait until that particular notification is put in our hand before we present such a Resolution. I think the suggestion made here by the Superintendent and his assistant might even be improved on. We have only a short time until adjournment of this special Council meeting, so my thought is why not work on this proposal later than have an unfavorable reaction and be misunderstood on this proposal from the Chairman of our Education Committee. With such an explanation where it is that we ask for advice, I think that advice should be considered, and I leave that with you for further discussion.

Mr. Platero:

Mr. Chairman and Members of the Council. The Superintendent's statement is very timely. If there is one weak spot in me it is patriotism. I am not going into the details of that, but here is one thing I believe should be taken into consideration. We know for a fact that Congress convenes on January 3rd, I believe that is the usual time, and from there on the budget is considered, and my thinking was that maybe it might be of advantage for the Council in some way to act in some way to go on record, either as the Superintendent has suggested or in a way to just let the Chairman, that is, the Council authorize the Chairman, to do everything possible to block this proposed curtailment of these planned expansions on the Navajo Reservation. That was my feeling when you asked the Education Committee and other people of the Branch of Education to consider presenting a Resolution to the Tribal Council here and I still have the feeling that the Council should go on record indicating something to that effect.

Clifford Beck:

Mr. Chairman, Vice-Chairman, Members of the Tribal Council, Superintendent and School Officials: There are perhaps several points that need to be brought out in respect to this Resolution before us. However, I will be brief and state my views on it. We have finally seen whereby a good portion of Navajo people have been provided with school facilities. In certain places, the facilities were such it took care of all the Navajo children of school age. In other places, what facilities were provided were still not enough to take care of all the school children. Recently, I have seen a plan showing there would be further school construction to be done in New Mexico and Arizona like at Pinon, Leupp, and Mariano Lake. This plan calls for additions to

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present facilities. I think we cannot just leave the plan as is and have nothing done in the way of construction. Certainly there is still need for additional facilities so that we have children in schools. We have helped all certain schools, schools in Shiprock, Keams Canyon and other places. If this curtailment is made it would do harm to a lot of our people, so I think this Resolution is quite in order, and also a thing that is necessary and the Tribe must be put on record to some effect to show that they are concerned about this present curtailment so I would make a motion that we approve this Resolution.

Also, considering the suggestion that was made by the Superintendent, Mr. Chairman, I would like to withdraw the motion I have just made, but in place of it I would recommend we include the suggestion that has been made by the Superintendent and placed on there, that we authorize the Chairman of the Navajo Tribal Council to do any and all things necessary so that they will not be any curtailment in the proposed plan of construction of school facilities for the Navajo people.

Mr. Billy Bocenti:

Mr. Chairman and Council Members: Since we are again on the subject of schools, I would like to say that this is a subject that concerns everyone of the members of the Navajo Tribe. They are all aware of the importance of education for their children. That being the case I think we can not very well hurry this thing at this time. Later I would believe it would be better that we delay this until we do come back for the next session and then at that time we can go through it very thoroughly and prepare the document that would meet the needs. Therefore, I would like to make a motion at this time that we table this proposed Resolution.

Mr. Gorman:

Mr. Chairman, Members of the Tribal Council: I was going to second the motion of Clifford Beck when he made the motion to approve this Resolution. I think this is a very good Resolution, and it is compiled on the basis of information acquired from the Navajos in the field by our Education Committee. I would like to say this for the information of the Council that the country was at war, it was just in the last lap of the Civil War between the North and South in the area, that is, when this thing was drafted, and ratified by the Senate.

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and therefore, as far as the war is concerned it should really not interfere with the thing we are trying to do. We are trying to educate our children, and most of all I would like to impress upon you that in case any rejection is to be made that we keep this matter of the Treaty of 1868 right behind the eyes. Let us wear it on the forehead because I understand several times there have been movements made that this Treaty be eradicated so that there would be no Treaty, and that we would be subject to all other laws and do away with this whole thing. I have heard that from time to time, but I think we should keep this going and base everything on the Treaty of 1868 because we I think it is something very sacred to Navajos and therefore, I think, that in the revision of the new draft, if there is going to be a new draft--we should base our request on the promise made to the Navajo people through the Treaty of 1868. If the Government would carry out the stipulation of the provisions of the Treaty, I think we would all get along better, and we should not forget the stipulations of this Treaty. Therefore, I second the motion of Bill Becenti that we table this for the time being. Maybe we'll get a new draft out on it. Also, we must not forget the fact that we met with the Congressional leaders in Gallup where the Branch of Roads was presented in regard to constructing additional roads.

The Chairman:

I believe you have something to tell your people that this matter was brought to your attention, freely discussed and the proposal has been made that we draft another Resolution requesting the safeguarding of our educational measures, and you should tell your people that some curtailment in many of the Government activities is expected so we have this matter moved and seconded to table this Resolution for redrafting at a later time. All those in favor, please stand.

(64 Councilmen approved)

The Chairman:

Those opposed:

(None opposed)

The Chairman:

We have been asked for what are the other needs of the Navajo people. We then brought out that there is a need for additional educational facilities and so forth

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to that group, the Watchdog Committee, and after such a program I think we cannot very well have schools without roads.

Mr. Platero:

Mr. Chairman: This news that we have, I believe, is official. I talked to M. Murray this morning in the Gallup Office. He said he had the official letter from the Central Office, so what I would do next is to try to get it over the radio, probably next Sunday. Not this Sunday, but the Sunday after. I think this is important enough to bring to the attention of the Navajo people, and all of you who are concerned with Navajo education.

The Chairman:

I would like to tell each and every one of you that we appreciate your presence at this session. There were very few missing and perhaps they had good reasons to be. Maybe they were away in employment and for that reason they could not attend. We cannot very well plan some of these Council delegations because there are things that may cause them not to be here and I would like to say that we appreciate your attention and participation of these discussions. It is true that we have to take time because we are using two languages to carry out many of the things which we try to pass along to all of you, but there is one fact we cannot get away from and perhaps some day we will, but right now while the majority of the Navajo people do not understand the English language we must respect that at all times, so briefly I would like to say we appreciate your coming here and participating and that we shall look forward to meeting again in January.

We will now adjourn.

(Whereupon the meeting of the Tribal Council of the Navajo Tribe adjourned at 5:20 p.m., Friday, December 13, 1957)