

Sept 13, 1950

answer as to how we can together find facilities to put all these youngsters in school that want to go to school. We need to push ahead with programs and plans that will provide the opportunity for training more and more Navajo people who feel they would like training in the skills and in the professions and in anything else that they don't have training in.

Now in closing I want to say that, first of all, I have great confidence in these two gentlemen (Mr. Harper and Mr. Olson) that represent me here. I am going to give them every support I know how, to get the job done. I have great confidence in your Chairman and Vice-Chairman and your Council. I believe you are going to go ahead as you have during the last year or two and do bigger and bigger jobs. I also have the faith and hope that you are going to assist the local districts in developing stronger and stronger local people so that they can take over some of the jobs you cannot handle yourself.

So long as I am Commissioner, I pledge you my support toward the kind of cooperative programming and execution of that program that we have talked about here this morning. If we can agree upon what we think ought to be done, I will fight to the last ditch to help convince the Congress that we ought to have the funds necessary to carry out our ideas.

I want to say further - I have had lots of hard work in the last week, but I have had lots of fun getting acquainted with you folks and with the reservation generally, and I hope it will not be too long before I can come back and spend some more time. Thank you very much.

CHAIRMAN:

I just want to say we are thankful to our Commissioner. Thank him for the most encouraging words that he has spoken to us. We will remember and cherish those words and we appreciate what he is trying to do for us and appreciate what the Congress has done for us and will do for us. We regret to say that other members of the Congress and Senate who we thought would be with us could not come because of urgent work in Washington. We are very much pleased to have all the visitors from outside and also the members of the Navajo Tribe. We feel very much honored that the Commissioner did have the time to come among us, the Navajo people. So we have killed some fatted calves and we will have a barbecue this afternoon in his honor. We invite all the visitors and Navajos that are here to participate in the barbecue.

One thing which is the life-blood to the Navajo is the

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San Juan River. This question was discussed in Farmington. We heard Mr. Harper has been there. So far he has not said anything on it. I think at this time he will make the report on the development of the question. We want to hear it. We want to hear what has been done, before the Commissioner, so that he will know what is being discussed. We don't like to lose any portion of that river down to the Rio Grande, so we want the Commissioner to hear everything that is being said.

MR. HARPER:

Mr. Chairman, there has been some development in connection with the San Juan-Shiprock project. Yesterday I received from Washington a letter from the Associate Commissioner, Rex Lee. This letter enclosed a memorandum on this matter signed by the Secretary, Mr. Chapman. This letter and the enclosed memorandum were yesterday immediately mimeographed and made ready for submission to the Council. Paragraph 7 of the memorandum specifically directs me to present this memorandum to the Tribal Council. I therefore think, Mr. Chairman, that one more item must be added to the agenda on the Shiprock-San Juan project.

I will only say now that this memorandum directs the Bureau of Reclamation and the Bureau of Indian Affairs to continue their studies of the Shiprock project and to have those studies completed by January 1951. This memorandum directs us out here in the Indian Bureau to continue our studies on the basis of an Indian project that will be between 100,000 acres and 113,900 acres. This acreage is the same as the acreage which was shown on the map which I have on at least two occasions presented to the Tribal Council. The acreage for the Indian project, so far as these studies are concerned and the orders of the Secretary are concerned, has not been cut to 70,000 acres or any other figure you may have heard about in the newspaper. This is the acreage which Assistant Secretary Warne mentioned when he delivered his address in Santa Fe to the New Mexico Association some months ago. This memorandum also directs the Bureau of Reclamation to continue its studies of the inter-mountain diversion of the San Juan River to the Rio Grande system along the lines of a project that will require between 200,000 and 300,000 acres feet of water. This memorandum finally directs the Bureau of Reclamation to continue its studies of white projects, non-Indian projects, in the San Juan valley totaling 20,000 acres. May I point out that this memorandum is concerned with studies and planning; that this memorandum cannot and does not make any final disposition of the available water in the San Juan River. ||

A few weeks ago, as the Chairman mentioned, there was

a public meeting on this subject held in Farmington, to which I was invited. At that meeting different points of view were presented by different speakers. One speaker took the position that no water should be diverted from the San Juan River to the Chama River - not one drop. Another speaker took the position that the Indian project was the most important project, and that the main objective was to make sure that the large Indian project was included in whatever final decision Congress makes in providing money for these developments in New Mexico.

I would suggest that this subject be placed on the agenda for fuller discussion, especially with regard to the letter which transmits to us the directive on studies from the Secretary.

CHAIRMAN:

I believe the way I understand the procedure that is going on is that the survey is going on regardless of the loss involved. It looks like that memorandum should be studied first before that study is undertaken. That is the reason I want to call on the Tribal attorney because I think there is a lot going on in Washington. Even though it is about noon now, I would like to give him a little time while the Commissioner is here.

MR. LITTELL:

Pursuant to the instructions of this Council and your request at the last Council meeting for my opinion, as your attorney, as to your legal rights in regard to this, I can advise you temporarily and not finally as follows:

This letter which has been summarized to you represents a splendid effort by the Department of the Interior to compose the differences and conflicting interests, but I point out to you that the facts are by no means complete or settled at this moment. The conflict of opinion as to the facts is well illustrated by the fact that one region of the Reclamation Service with headquarters at Salt Lake City says there should be no diversion from the San Juan-Chama, and the other headquarters in Amarillo says there should be. That is general knowledge--the difference of views between the two headquarters which Assistant Secretary Warne directs them to settle in this memorandum.

One fact of very great interest to you is that this report speaking of 113,900 acres for the Navajo project, presupposes that the decision in the Supreme Court of the United States, called the Winters Decision, protects you in the right to gravity flow only. If it could be argued that you can also pump water then the Navajos would be entitled, as I understand it, to 50,000 or 60,000 acres more. Your opponents in favor of the diversion would argue that the Winters Decision does not entitle you to even build reservoirs, and that it only entitled you to the flow you can get naturally. With which view we vigorously dissent and, of course, will never concur, and neither will the Department of the Interior.

If there was an unlimited flow of water in the San Juan River I am sure you would not wish to be hogs and claim it all, but it is not determined how much there is which can be counted on. However much there is which should legally go to the Navajos, it will be the life-blood of a great area of this reservation as Sam Ahkeah has stated. Your opponents fully realize that. They attended the meeting in Washington in September for general discussion, which a member of my office attended in your behalf and reviewed thoroughly with me, and I have in turn reviewed it with the Department of Interior people. The Rio Grande people contended you were only entitled to 70,000 acres. That is probably what you saw in the papers.

Some of your friends, particularly the Farmington Chamber of Commerce representatives, contended very strongly on the other hand that there should be no water diversion to the Rio Grande; that there was not enough water to divert any of it out of the water-shed across the divide. There is an agreement entered into between Arizona, Colorado, New Mexico, Utah and Wyoming with respect to division of water which states in Article 14 that the agreement saves and excepts what obligations the United States Government has toward the Indians. I don't think that agreement can really be carried out without the cooperation and decision of this Council. I think the Bureau undoubtedly intends that also. Mr. Harper would perhaps add that to what he said. I trust so. Whatever decision is made will be made with your full consultation.

Among the basic legal problems which I have just mentioned, there is a deep one which you will have to consider eventually, I believe, and that is whether there is any right to divert this water to another watershed at all unless it is completely surplus water and there is no need for it in this watershed at all. When we have the facts you will be better able to decide that, but in all fairness and in all practicability you should face the fact that it may not be entirely a legal problem. It is partially a problem of appropriation of funds, irrespective of what your legal rights are. You must have the support of Congress to appropriate money to divert the water. It will cost a terrific price; you would never be able to do it yourselves with Tribal funds. The legal problem may have to yield to some extent to the practical problem of gaining the cooperation of all concerned. This is a complex subject and this is enough from me at this moment, I believe. No final opinion can now be given.

I have had two or three requests to complete the discussion of last Council meeting in regard to a point urged regarding filing claims for Indians who had their stock reduced during the stock reduction program. There has not been time this morning to discuss it. I hope the Council will give me the time on Thursday for that and other points which your attorney should advise you on for which there has been no opportunity.

MR. HARPER:

Now, Mr. Chairman, may I give the program details for the afternoon. The program committee has planned a program to begin at 12:30 with Indian dances which will continue to 1:15. There will be horse races from 1:30 to 3:00 with some of the good horses the Commissioner mentioned in his speech. And then the most important item of all, the barbeque, will be held from 3:00 to 6:00. The Commissioner will be there all afternoon and will be able to meet the delegations of Navajos and the members of the Council and visitors who are here from various organizations and from the border towns. The Navajo Police Force in their new green uniforms will be directing traffic. The members of the Advisory Committee and the officers will have a quick lunch with the Commissioner at 12:00 immediately after we adjourn at the fair grounds.

CHAIRMAN:

We will recess the Council session until 9:00 tomorrow morning.

(WHEREUPON, the Council was recessed at 12:00 noon. The meeting was again called to order by the Chairman at 9:30 a.m., Thursday, September 14, 1950. Roll call was answered by 55 Councilmen.)

CHAIRMAN:

There is a quorum of the members of the Council present, so the meeting will now come to order. I would like to ask Mr. Olson if any report has come back from the traders over the reservation on the drought question and the question of the sheep.