

JOE DOMINGO: Mr. Chairman, Council Members; They changed my mind to Wednesday morning, so let's put it on Wednesday morning, first thing in the morning.

CARL TODACHEENE: I second the motion.

THE CHAIRMAN: We have a motion by Mr. Domingo, seconded by Mr. Todacheene. Those approving having Item 33 set up for Wednesday; those in opposition.

CARL BEYAL: Mr. Chairman, the vote is 33 in favor of that and 0 opposed.

THE CHAIRMAN: Members of the Council; We'll request the Secretary to read the resolution which was handed out.

CARL BEYAL: Mr. Chairman and Members of the Council: Here is a proposed resolution of the Navajo Tribal Council recommending legislation by the Congress of the United States to fully implement the Navajo Irrigation Project.

(Whereupon, the following resolution was read by Carl Beyal.)

PROPOSED RESOLUTION  
OF THE NAVAJO TRIBAL COUNCIL

Recommending Legislation by the Congress of the United States to fully Implement the Navajo Irrigation Project

WHEREAS:

1. The Navajo Tribal Council, by Resolution dated December 12, 1957 (CD-86-57), supported the passage of the Act of June 13, 1962 (76 Stat. 96) which provided that the Navajo Irrigation Project would divert an annual average of 508,000 acre-feet of water to irrigate approximately 110,630 acres of land on the Navajo Reservation and lying outside the Reservation to be acquired by the Secretary of the Interior and to be held in trust for the benefit of the Navajo Tribe, and

2. The Navajo Tribe consented to compromise its rights under the Winters' Doctrine by agreeing to share shortages of the water from the San Juan River instead of insisting on the Tribe's right of priority to such shortages as consideration for the development of the Project, the acquisition of additional land to make up the 110,630 irrigable acres and the allocation of 508,000 acre-feet per year to the Tribe for irrigation use, and

3. The Navajo Irrigation Project is the most important project on the entire Navajo Reservation. It will create employment for a large portion of the Navajo Tribe and will give them permanent employment in farming and related industries. In comparison to all other programs now in progress on the Navajo Reservation, or being contemplated, the Navajo Irrigation Project holds more promise for the social and economic uplifting of the Navajo people than all of the other projects put together, and

4. Recognizing the importance of the Navajo Irrigation Project, the Navajo Tribal Council on October 5, 1966, passed Resolution CO-106-66 commenting on the Task Force Report in regard to the re-evaluation of the Navajo Irrigation Project, and

5. Recent reports have indicated that, due to the lack of appropriations to implement the Navajo Irrigation Project according to the original scheduled plan, the construction of said project is in such a stage that the deliver of water to the land will be three years later than originally anticipated, and

6. The Commissioner of Indian Affairs has requested all Indian Tribes to give statements regarding what legislation they feel is important to be presented to the next session of Congress.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council hereby declares that it considers the Navajo Irrigation Project as the most important one program being developed on the Navajo Reservation and that it considers the appropriating of sufficient money and letting of appropriate contracts to be the most important one item which the Congress can do and authorize for the benefit of the Navajo Tribe.

2. The Navajo Tribal Council again states the condition agreed upon with the United States established in the Council's resolutions of December 12, 1957 (CD-86-57) and April 28, 1966 (CAP-56-66) as restated in resolution of October 5, 1966 (CO-106-66) as follows:

- a. The land area to be irrigated by the Project must not be reduced below the authorized 110,600 acres and the annual diversion from the Navajo Dam for irrigation must not be less than the authorized 508,000 acre-feet, whether the capacity to supply this quantity is provided by an increase in the size of the tunnels and canals or by the Gallegos Reservoir.

- b. The irrigation Project must be exclusively for Indian use and there must be transferred into trust status sufficient off-reservation areas necessary to make up 110,630 irrigable acres which will be included as part of the irrigation project.
- c. No use in New Mexico of water of the San Juan River not heretofore authorized will be given priority ahead of the Navajo Irrigation Project.
- d. All of the irrigation project facilities must be constructed with sufficient capacity to supply reasonably anticipated industrial and municipal needs (as evidenced by the applications for water allocations already submitted to and approval being withheld by the Secretary of the Interior) without reducing the 508,000 acre-feet authorized for irrigation and without requiring such industries and municipalities to construct supplemental storage terminals.

3. The Navajo Tribe Council, on behalf of the Navajo Tribe, hereby requests the Commissioner of Indian Affairs to draft a bill consistent with the terms of this resolution and, after consultation with the Advisory Committee of the Navajo Tribal Council, present such a bill to the 90th Congress, which bill will accomplish the following purposes:

- a. Appropriate sufficient money to complete the Navajo Irrigation Project under its original plan.
- b. Authorize the inclusion in said Project of additional land to make up the total of 110,630 irrigable acres authorized.
- c. Provide for accelerated construction and appropriation of money in order to make up the loss of three years which have been lost to date in the construction schedule.

4. The Navajo Tribal Council hereby authorizes and directs the Legislative Secretary of the Navajo Tribal Council to forward copies of this resolution of the Commissioner of Indian Affairs, the Secretary of the Interior, and to the chairman and members of the appropriate committees of the United States Congress, and to request of the chairman such committees, on behalf of the Navajo Tribe, that the Navajo Tribe be given an opportunity to be heard at any hearings in which such bill is being considered, and to

request that a specific invitation to attend such hearing be addressed to the Chairman of the Navajo Tribal Council, the Advisory Committee of the Navajo Tribal Council, the Director of the Resources Division of the Navajo Tribe, the Head of the Land Investigation Department, and the General Counsel of the Navajo Tribe.

\* \* \* \*

NED PLUMMER: Mr. Chairman, Members of the Tribal Council, Mr. Nakai, Area Director, Tribal Employees: Ladies and Gentlemen, I make a motion that we approve the resolution as constructed and presented to the Navajo Tribal Council for approval.

THE CHAIRMAN: Ned Plummer has made a motion that this resolution be adopted just as presented and read. Allen Harvey seconded the motion.

FRANK BRADLEY: Mr. Chairman, Members of the Council: I would like to make a request for ammendment to that resolution that is before the Council. I would like to request the gentleman that made the motion and second to, under "Now therefore be it resolved" under paragraph 2, subparagraph b. where it states that this is exclusively for Indian use, I think we should put in the word there saying Navajo Indian because this project is for Navajo Indians. I'd like to have that spelled out that this is going to be for the Navajos only for the reason that later on that they might be putting in some other Indian tribes so I think that we should put Navajo in there.

NED PLUMMER: Mr. Chairman. I accept the request.

ALLEN HARVEY: I also concur.

FRANKIE HOWARD: Mr. Chairman, Members of the Tribal Council, I'd like to ask a question first on the same line where just below where Mr. Bradley had requested for an ammendment, under Item b.--I mean d., where it states all of the irrigation project facilities must be constructed with sufficient capacity to supply reasonably anticipated municipal and industrial needs. Now I am asking--I thought, my understanding was, that this water is for irrigation purposes only. Now why are you adding for industrial uses and such other uses too. I'd like to get more explanation on this from our attorney. And also, Mr. Chairman, on page 4, on Item 4. starting from there it says, this resolution should be sent out to the Commissioner of Indian Affairs, Secretary of the Interior, Chairman, and members of the appropriate committees. This is not specific. Appropriate committee, what do you mean by appropriate committee? I believe this should be spelled out as the Committee on Insular

and Indian Affairs should be added into this instead of appropriate committee--we don't even know what appropriate committee means. It should be spelled out that the Committee on Insular Indian Affairs is a subcommittee. This should be included in here so that way we would know because the Insular and Indian Affairs Committee has dealings with Indian Tribes of the United States on such cases as this resolution here before us. So on this the person who made the motion, I would like to request to insert the Committee of Insular and Indian Affairs, Committees and any subcommittee, instead of --then just delete that appropriate committee out from this. I'd like to request that, Mr. Chairman.

WILSON HALONA: Mr. Chairman, Members of the Tribal Council, Ladies and Gentlemen: I'd like to ask a question under the "resolved" clause under c, I'd like to know what it means about catching up in three years, I'd like for that to be clarified.

WILLIAM LAVELL: Mr. Chairman, Members of the Council: In answer to the question, the reason that the Interior and Insular Affairs Committee was not mentioned is because it is not the only committee that would be concerned with this and the appropriations committee will be concerned, you know they sometimes want to have a gander into this, we hope to ask Congress to appropriate the additional, what was that, \$45,000,000 or whatever it is, so there will be a number of committees considering that particular bill and rather than enumerate them, I thought this might be more appropriate. They will all be contacted, including Interior and Insular Affairs.

In answer to the second question asked by Mr. Halona, Ned Hatathli is best able to give details on how--Unfortunately he is not in town today. I could give you what information he has given me and that is this, that over a period of years since the bill was passed the appropriations have not been sufficient to let enough contracts to keep the work up to the schedule originally planned on. At present the work is approximately, according to the latest estimate, approximately three years behind schedule because of lack of appropriations, and, of course, the idea of this paragraph being included is to ask Congress to make up the appropriations that were not made in the past to catch up with the construction schedule and hopefully make up the last three years without further loss of time.

FRANK LUTHER: Mr. Chairman, Council Members: There was a question asked which wasn't answered, that is on allowing the diversion of 508,000 acre-feet of water, it is questioned because it is for irrigation purposes only, but there was an indication that or wording about the industrial

and municipal needs, and, of course, this proposed resolution is saying that we would request the Indian Commissioner to draft the necessary bill for presentation to Congress. We, apparently, don't have any water available for industrial purposes because everytime when there is a plan or a proposal brought up about creating or providing for industrial facilities, we are always advised that...we don't have the water for such purposes. So maybe it might be wise to include a paragraph or a provision in here which would request that there be availability of water for our industrial purposes. I'd like to ask the legal advisor here for an explanation, possibly the Bureau officials may give us also some further information and after that is done maybe we could very well include that in here.

FRANKIE HOWARD: Mr. Chairman, as pointed out that's the question that I raised which wasn't answered. In other words, on page 3 in paragraph b. where we read that without the reduction of the 508,000 acre feet authorized for irrigation and without requiring such industries and municipalities to construct supplemental storage terminals. That being so, then I raise a further question, since we are concerned about the diversion for irrigation purposes only, then if we are interested in industrial needs, how much more of this acre-foot diversion would be required? In other words, just for an example, could it be 50,000 acre feet. If so, by adding that much more we would be having 550,000 acre feet of water. In order to do that, I further ask if we divert that much water would it necessitate increasing the size of tunnels and so on. In the main my question is that without increasing the size of tunnels and so on, can 50,000 acre feet of water be included? What I am stating, if we add that much more water it can still be diverted without increasing the tunnels.

WILLIAM LAVELL: Mr. Chairman, Members of the Council: My answer to the last question is no. With the present size of tunnels and canals as proposed by the Task Force Report such additional diversion at least during peak load periods in summer months for irrigation would require additional storage facilities. It would mean that additional 55,000 acre feet or however much more it might be, could be carried through the tunnels and the canals if during off peak load season, like the winter months when not much irrigation is done if storage facilities were built for this additional water, storage for the summer use.

The answer to the other question, will require a very brief review of the Task Force that was appointed for re-evaluation and in this report, you will recall that a little less than a year ago a Task Force was appointed to re-evaluate this. In essence, the re-evaluation boiled down to a question of whether or not it wouldn't be better

to take some of this 508,000 acre feet and divert it into municipal and industrial use, and thus reduce the acreage of land and acre feet of water to be used for irrigation. This initial suggestion made at the first meeting of the Task Force Group, was best answered--best I have heard anywhere, by Mr. Carl Todacheene who was present there. He opposed this idea on the ground, basically, that all this industrial use is something the tribe could do in its discretion in the future, but right now, Navajo people are suited to a farm use of this water and that the use of the 508,000 acre feet should not be changed from farming. Now let me emphasize that the law, as it now stands, says primarily for agricultural use--it doesn't say exclusively, so the tribe is now in a position under the wording of such law to use it all for agricultural or part for industrial and municipal, I mean part for agricultural and part for municipal and industrial, as long as the primary use is for agricultural. This gives the maximum leeway. The important thing is this, and I think the Utah construction application for 45 or 48,000 acre feet, I forget which, is a good example. In addition to the 508,000 acre feet which you are entitled to under the law as it now stands, as a matter of right, there is a pool of 200,000 acre feet available for municipal and industrial purposes and available to anybody in the State of New Mexico, who can put it to beneficial use and this 200,000 acre feet is obtained by making appropriate application, such as Utah Construction has done and eventually enter into a contract with the U. S. Government. Now the crux of this is 508,000 acre feet, should that 45 or 48 thousand acre feet come out of Navajos or out of the 200,000 acre foot municipal and industrial pool. Well, it's obvious what the Navajo Tribe thinks it ought to be, and it is obvious what the original intent of the bill was--it must come out of the 200 acres 200,000 acre foot municipal and industrial pool and the Navajo Tribe will still get its 508,000 acre feet primarily for agricultural purposes. If in 10 or 15 or 20 or 30 years from now, the Navajo Tribe sees fit to take some of that 508,000 acre feet and divert it to M&I and for industrial use, you have the right to do so. But I think it would be the worst possible thing to, at this time, state that any municipal and industrial uses of the Navajo reservation will come out of your 508,000 acre feet. It shouldn't even sound like it because if it sounds like it, they'll use it. You have got to take a position now that any M&I water is to come out of that 200,000 acre foot M&I pool period. You have a right to that position and if you stand on it, that is exactly where it will come from and you will still have your 508,000 acre feet.

HOWARD GORMAN: Mr. Chairman, Members of the Council and friends: I'd like to ask Mr. Lavell three questions regarding this resolution. The three questions are these. There is now,

according to the Upper Colorado allocation of water, I think there is about 11.25% acre feet to be diverted by the Transmountain diversion into the Rio Grande valley out of the Navajo Dam. I wonder if we could specify in this resolution that no increase be made of that amount. I believe that amount has been--the politicians in New Mexico, have tried to increase the amount of water to go over to the Transmountain diversion, cutting down the amount of allocation made to the Navajo Tribe.

The second question, this is a question following up on Mr. Frankie Howard's question, could some amendment be made regarding the return flow? After the water has been used for irrigation and all the water that goes back into Shiprock-San Juan River, could some amendment be made so that we can get part of it--catch part of that water for the Navajo people? Maybe it can be used for such things as industrial and municipal purposes.

The third question that I would like to ask is a very controversial one. Even during the time that the Upper Colorado River Projects were being discussed, in this part of the country and Washington, and that is, according to the feasibility report, the land lying south of Shiprock around Table Mesa, there are 444,000 acres, excuse me, strike that, let me say 44,000 acres of Mancos shale land. Expert soil analysis termed this as bad land, but the original intent by the tribe was to use this land for irrigated pasture. I wonder if we couldn't include this in here also, that that land we would like those lands to remain under the feasibility report that was finally made and agreed upon that this 44,000 acres of Mancos shale land could be used for irrigated pasture and our justification for that was to remove from the Navajo Reservation surplus animals that they can still be under the ownership of the livestockmen, and in the pastures within this area under Navajo use. What have you got to say, Mr. Lavell? Thank you very much.

WILLIAM LAVELL: Mr. Chairman, Members of the Council: My answer to the three questions is I think it is time for you to recess. I'll have an answer Monday.

THE CHAIRMAN: Members, then we will return and start in again Monday at ten A.M.

(Whereupon, the Navajo Tribal Council recessed at 12:05 P.M. on January 20, 1966.)

GK/gk/lt