

RECORD
OF THE
NAVAJO TRIBAL COUNCIL

April 28, 1966

The meeting of the Navajo Tribal Council was held in the Council Chamber, Window Rock, Arizona, on Thursday, April 28, 1966, at 8:35 A.M.

Vice Chairman Nelson Damon, Presiding

Carl Beyal, Legislative Secretary-Interpreter
Clare Thompson, Interpreter
Gail Koehnke - Patricia Damon, Reporters

THE CHAIRMAN: We will now call our meeting to order and proceed with our business again. First we will have the roll call.

(Whereupon, roll was called and 46 Council Members were present at the commencement of the meeting.)

CARL BEYAL: Mr. Chairman: 46 present.

THE CHAIRMAN: We have a quorum present so we will call upon Mr. Peter Yazza this morning for our invocation.

(Whereupon, Councilman Peter Yazza delivered the invocation in the Navajo language.)

THE CHAIRMAN: Members of the Council: Prior to our recessing last evening, a resolution was introduced on the floor, the proposed resolution of the Navajo Tribal Council, Objecting to Proposed Re-evaluation of the Navajo Irrigation Project, of which a motion and second has been made on the floor for its adoption. In the meantime, there was a question posed which was left unanswered. At this time, I believe, the question posed was directed to the Bureau Official. At this time, the floor will be given to the Bureau for the necessary answers to the questions posed.

THE CHAIRMAN: Graham Holmes.

GRAHAM HOLMES: Mr. Chairman, Members of the Tribal Council: As I understand the question, it was, has the Tribe been denied its share of water for municipal and industrial purposes. I take it that it means, has the Tribe been denied its share of water in the Navajo Dam? I think the answer is, no, the Tribe has not been denied its share of water. Under the present law, the Tribe has a right to divert 508,000

acre feet for the Navajo Irrigation Project. There is some other water still remaining unallocated in the reservoir. The Tribe is in a position to make a request for an allocation of water any time the Tribe has any use for water and as far as I know, a request from the Tribe would receive the same consideration as a request from anybody else. As an example, the generating plant in the Four Corners Area has an allocation of water. This benefits the Tribe because the Tribe's coal is used in this generating plant. There are other applications pending for the use of the water for generation of the electricity and burning the Tribal coal. So up to now, every drop of water that would be beneficial to the Tribe has been granted when an application was made. But the applications have been made by the companies that are going to use the water to burn the coal. So if the Tribe has a need for water, it should now file an application for an allocation of water over and above the 508,000 acre feet which is now established by law. Does that answer your question?

FRANK LUTHER: (Indicated the affirmative)

GRAHAM HOLMES: The second question was, will water diverted from irrigation or from the irrigation projects be made available for industry on the Reservation or will it be used off the Reservation? Well, in the first place, this question assumes that water is going to be diverted from the irrigation project. That fact is not now known. The study that is being made or will be made in cooperation with the Tribe may not show any water to be diverted from the project at all. In other words, there may well be 110,000 acres of land that can be irrigated profitably under the project. Some day it may show this, all of this land may be east of Chaco Wash. We now suspect there are 110,000 acres of land that can be irrigated east of the Chaco Wash. So in the first place, we don't know that any is going to be diverted from the Tribe for that purpose at all. There's a good chance that it will not. But let's assume for the purpose of this question that this study shows that you just can't find...you just cannot find land in that 110,000 acres that can be profitably irrigated paying operation and maintenance. If that happens, then the 508,000 acre feet may be diverted and may be used for municipal and industrial purposes on the Reservation. For example, we need more water now at Shiprock for municipal purposes. Shiprock is a growing town. We are going to have to divert more water there all the time for municipal purposes. Industries are going to grow up. We're looking for industries and the studies being made to the petro-chemical industry which might locate here using the coal or some of the other industrial products over there. So perhaps the answer to the question is both no and yes. Right now, there is not any plan that is known that will make water available. It is entirely possible all the water might be used for irrigation but in the event that

it is to, then the Secretary would have to deprive the Tribe of any of the 508,000 acre feet. Does that answer your question?

FRANK LUTHER: (Indicated the affirmative)

GRAHAM HOLMES: I think my advice to the Council would be generally that this resolution as proposed anticipates the worst that could possibly happen. It may not happen that way at all. My advice to the Council would be that you appoint enough able representation to sit on this study team, to be with the study team all the way through, so you will know what is going on at every step, so that they can keep you advised, so that you will know the very minute that anything begins to look like it is going wrong as far as you are concerned. Now it could go all right, so I say you put on the very best representation you can because I know you have done that already. Have somebody there all the time and keep a close watch on this re-evaluation study, know what is going on every minute and if you feel that Indian or any of your rights are being jeopardized in any way, then take action to protect it.

HAROLD DRAKE: Mr. Chairman, Members of the Council: I understand, according to this proposal, that Senator Clinton P. Anderson, of New Mexico, made a proposal to Secretary of the Interior Udall, in which the Secretary has agreed. The way we have heard it though other means is that all practical means have been prepared and ready for action and when it was all ready the Secretary of the Interior did not move to finalize or approve the intent. Thereby, it became...it did not go forth like it should have. That leads me to wonder why only two people here are to hold up the whole project, why is it at this time that only two people have such a power to do so? That is my question.

GRAHAM HOLMES: I think the answer to that, Mr. Chairman, Members of the Tribal Council, the answer to that is that two people have not held up the project. The construction is about on time, up to this time, that is, the contracts have been let the tunnels and diversions have been built, the appropriations have been about on schedule. There has not been any holding up, but it is becoming more and more apparent that it's getting harder to get the money, and the time has come when a big appropriation is going to be necessary. Now there has been concern on the part of everybody and the original letter from Senator Anderson to the Secretary shows concern that the money is not going to be requested and the project was going to slow down. In the letter from the Secretary to the Senator...here is a copy (indicating) and it points out that up to now, although there has been some apprehension, up to now the project is pretty well on schedule on the

construction. Now the engineers and everybody involved in the irrigation project oftentimes change the project and its construction as it goes along. This seems strange to me and I agree with you it always looks to me like they ought to be able to lay one out before they start. But no irrigation project, as far as I know, has ever been done that way. It's always found when they get into the construction of it that some of the land is not irrigable and other lands nearby would be better to put in the project. Every project that's ever been built that I know anything about went this way.

Furthermore, as I understand the situation, the statute or the law passed by Congress which authorized this project set aside for the Navajo Tribe 508,000 acre feet diversion. The Navajo Tribe has the right set by Congress to draw that much water out of the Navajo Dam. If that is going to be changed, it's going to take an act of Congress to change it. You will have the right to divert this much water until Congress changes the law. The Secretary and the Senator can't change the law.

HAROLD DRAKE: That's what I mean.

GRAHAM HOLMES: And they haven't tried to change the law. So up to date, the project is pretty much on schedule and under the law the Tribe owns this much water in there. What the Secretary has said is that there may be a chance that you can make better use of the water than to use it for irrigation. So a study should be made to see about this, and you have been asked to participate in this study at all points. At the first meeting at Farmington, some of you were there and you will be invited to sit in on every meeting, you will be invited to hear every word that is said. You will be invited to participate in all conclusions reached so that you will know all the time what is going on and what facts are being used to arrive at what conclusions.

CARL TODACHEENE: Mr. Chairman, Members of the Tribal Council, Visiting Friends: I would like to make a statement why some of us are concerned regarding this project. I think that the reason why we're concerned is because of the fact there have been definite proposals made to reduce the project. There's a letter that came...first of all, I think the man that actually is working to reduce the project is the man I supported as a good Democrat, Senator Anderson, and he had the Trans-Mountain diversion built and at the same time, just about two months ago he tried to get the big Indian School built at Albuquerque to induce us and now I think he's trying to get some more of our water down the Rio Grande. So I think this is the way we feel about some of the factors.

Now after Senator Anderson wrote to Udall, Mr. Udall then wrote a letter to the Bureau of Reclamation Commissioner

and then there was a letter written from the Bureau Reclamation Commissioner to the Regional Director in Amarillo, Texas, dated March 29, 1966. In this letter, the fourth paragraph, this is what it states, and I would like to quote the fourth paragraph of this letter dated March 29, 1966, "We suggest that you evaluate the irrigation project of at least the following sizes, 110,000 acres, 77,000 acres, 62,000 acres." I think this is the reason why we are concerned.

Another reason why we were concerned is the fact that in the same letter that I read, March 29, 1966, the State of New Mexico was also given the opportunity to participate in this re-evaluation, so-called the task force.

Now as such, there was a meeting on March the 8th, at which the Advisory Committee was, some of them attended, not officially, however, as observers. At that time, the Secretary, I believe, was his title to the New Mexico State Interstream Commission, Mr. Reynolds stated this, he says, "if there is any water which has to be returned from the Navajo Irrigation Project back into the Navajo Reservoir, we want to have that re-allocated regardless of whether it be on the Reservation or whether it be off the Reservation. Now we think that it pretty clearly states what the objective of Mr. Anderson is. That's the reason why we're concerned because of some of these factors that we know and we have heard and that's the reason why we say that, we want the Act which authorized the project... the Navajo Irrigation Program to be carried through the way Congress has authorized it because we feel that in any civilization, the best economy of any civilization is the farm, raising food, and I think...I don't need to go further into that. Long after the coal is gone, people have to eat. We feel that and we say again that our population is increasing in the Navajoland and it is increasing nation-wide. So the thing that needs to be protected everywhere is farmland.

I think this proposal being made for the re-evaluation by Mr. Anderson through Secretary Udall, we feel hurt because over here, right now, a group of Navajos at least to start with, 19 families are being moved. Now where do we move them to? And then there's this case of the controverted area where 10,000 Navajos are subject to moving. All these factors are to be considered, where do we go from here? And that's the reason why some of us are really concerned about these things and I don't think I need to go any further because I just want to stress again that we feel that the agricultural land is the basis of any civilization of any economy and consequently, we want our 508,000 acre feet of water and we want that 110,630 acres of land developed as authorized by Congress. Sure, we are interested in the M&I water, but we want the M&I water from the unallocated portion of that which still exists in the Navajo Reservoir. Another factor I think the Area Director

has brought forth is...pertains to the area which I represent. My area, namely, Shiprock, is in need of M&I water. Then again, I say that we need the protection of some of the tributaries of the San Juan River. Let the Navajo water impounded in the Navajo Reservoir stay, but we need the additional M&I water from the tributaries, such as the Animus River and the LaPlatta River. That's where we also get some of our M&I water. It flows into the San Juan River below the Navajo Dam, so this has to be protected too and that's my feeling on this matter, Gentlemen.

So, Mr. Chairman, I think we should pass this resolution and get it on its way. Thank you.

CARL BEYAL: Mr. Chairman, Members of the Council: For the Council's information, we would like to pass this on to you. You may be wondering why Mr. Hatathli and others are not here, but they are, right now, in Farmington awaiting this starting of the new meeting and if the Council sees fit to adopt the resolution which is now on the floor, the necessary information will be transmitted to him and he has the necessary copies to make it available for all the parties attending. So our department is then waiting on the Council's action.

THE CHAIRMAN: Members of the Council: I would like to inform you again that there is a motion on the floor for adoption of the proposed resolution. Motion made by Frank W. Bradley, second by Carl Todacheene.

HOWARD GORMAN: Mr. Chairman, Members of the Council: I would like to make a few comments in regard to the proposed resolution of the Tribal Council that is now before the Tribal Council. I would like to briefly review what has taken place in regard to the water of San Juan River. In the year of 1932, when the upper Colorado River compact was made the five states entered into a compact left the Navajo Tribe out of the compact at the time it was made. It was found that, according to the Winter's decision, the waters of San Juan River and the tributaries there belong to the Navajo Tribe. They had...the Navajo Tribe had preferential rights...I don't know what that means, I think that means exactly what...the way they put it...has preferential rights to these waters from the time of immemorial. That's the way it spells out in the Winter's decision from the time of immemorial. Now the Navajo Dam is a participating project to the Upper Colorado project, major projects. And without the Trans-Mountain diversion our allocation would have been some place in the neighborhood of 650,000 acre feet of water. You noticed that now it's a little over 500,000 acre feet of water. We have already been cut down from 650,000 acre feet of water down to a little over 500,000 acre feet of water. Now it was agreed between the Navajos and the Upper Colorado

Compact group that there would be only 11.25 per cent of water would be diverted from the Navajo Dam through what they call the Trans-Mountain Diversion. That is the same thing as Chama... San Juan-Chama Diversion, that's the same thing as that one. The time we agreed upon 11.25 per cent is to go through the Trans-Mountain Diversion. All of the feasibility reports were presented by different groups, upstream people. They also submitted a feasibility report, that's how we happened to get our allocation of water. Now Senator Anderson lives in Albuquerque, New Mexico. It was agreed that 11.25 per cent of water would only be used for municipal and industrial purposes in Albuquerque Valley, not for irrigation. At the time the Navajo Irrigation Project bill was signed there was a water shortage in the Elephant Butte Dam, that is somewhere below Truth or Consequences. And Texas, at that time, the State of Texas, claimed that New Mexico owed them several million acre feet of water. Here too, California and Arizona also fought hard for waters of the San Juan River. They went along with the Navajo Tribe when the Tribe agreed to let practically all the water that is called the return flow, that will benefit Arizona and Colorado. There will be no more dams built with the exception of one reservoir, I think it was, that was to be built. Well let me tell you a little bit about the 110,000 acres that is under the Shiprock project. It was anticipated at the time of the signing of the bill, and also submitted in the feasibility report that there were 45,000 acres of mancos shale, that is sort of a bad land sort of a land and it was to be used for irrigated pasture. This will benefit those Navajos that have excess number of livestock, sheep and cattle to go on this land, and their surplus on this land so that they would not be hurt economically. And that was the reason why the 45,000 acres lot was to be used for irrigation process. I think that, according to my figures, that's what they are trying to cut off and they are trying to take away the waters that would irrigate that portion of the land, this 110,000 acres of land that is to be under irrigation. I believe, that is about it. I think we should support the resolution, Members of the Council. Thank you, very much.

THE CHAIRMAN: Motion and second is in order for adoption of this proposed resolution. Those approving stand; those opposed stand.

CLARE THOMPSON: Mr. Chairman: The results of the vote, 58 in favor and none opposing.

CLIFFORD BECK: Mr. Chairman, Members of the Council: I was hoping that you would further consider the remark made by Mr. Holmes as to if we should appoint a Committee to participate that pertains to the irrigation projects.