

10/5/66

(Whereupon, the Navajo Tribal Council reopened at 1:40 P.M.)

THE CHAIRMAN: We'd like to proceed now and we can start in again by having the roll call.

CARL BEYAL: Mr. Chairman, 53 present.

THE CHAIRMAN: With that we're now starting and we have I believe another proposal which has been submitted to you and this is Item 5 on your agenda.

CARL BEYAL: Mr. Chairman and Members of the Council: Here's the proposed resolution of the Navajo Tribal Council, "Task Force Report of the Re-evaluation of the Navajo Irrigation Project."

(Whereupon, the following proposed resolution was read by Carl Beyal and made a part of the record.)

Proposed Resolution  
of the Navajo Tribal Council

Task Force Report of the Re-evaluation of 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.

2. The Navajo Tribe consented to compromise its rights under the Winter's 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.

3. Notwithstanding that the said Act clearly authorized the Irrigation Project to be constructed with the capacity to irrigate 110,630 acres and to divert 508,000 acre feet of water per year, the Secretary of the Interior first ordered the reappraisal, then the re-evaluation of the Project with the possible result that the capacity of the irrigation facilities and the acreage of the lands to be irrigated would be something less than that authorized by the Act and

that it would be necessary for the municipal and industrial requirements to be taken from the said 508,000 acre feet per year authorized by law solely for irrigation purposes.

4. The Act of June 13, 1962 authorizes the Secretary of the Interior to provide capacity for municipal and industrial water supplies over and above the diversion of 508,000 acre feet per year for irrigation 110,630 acres of land if contracts have been executed which will assure repayment of costs attributable to that capacity for municipal and industrial requirements. Applications for such contracts have been submitted to the Secretary of the Interior but he has so far failed to approve the contract for 48,000 acre feet per year submitted to him in May 1965 by the Utah Construction and Mining Company and other applications for the allocation of at least 92,000 acre feet making a total of 140,000 acre feet for municipal and industrial purposes, as well as the contract for 508,000 acre feet per year submitted to him in July 1964 by the Navajo Tribe of Indians.

5. The Navajo Tribal Council by Resolution dated April 28, 1966 (CAP-56-66) opposed the re-evaluation of the Navajo Irrigation Project and reaffirmed the conditions on which the Navajo Tribe had originally agreed to participate in the Navajo Irrigation and San Juan-Chama Projects.

6. The task force assigned to re-evaluate the Irrigation Project published a preliminary draft of their findings in August 1966 and has submitted this report to the Navajo Tribe for its comments. Among the findings made by the task force were the following:

- a. It is proposed that the size of the canal coming from the Navajo Dam to the Kutz Pumping Plant be reduced from 2,100 cfs to 1,800 cfs and due to this reduction in capacity the full area of 110,630 acres cannot be irrigated unless a supplemental storage called the Gallegos Reservoir is constructed.
- b. Even if the Gallegos Reservoir is constructed, the capacity of the Project will not be sufficient to deliver water for industrial and municipal requirements during the irrigation season.
- c. The final paragraph of Appendix IV states:  
"Therefore it is the recommendation of this Committee that the size of the works be of such size as to permit the irrigation of not less than 90,000 acres with a potential expansion to

100,000 to 110,000 acres dependent on industrial development." (emphasis added)

- d. With the reduced capacity of the Project tunnels and canals, industrial and municipal requirements can be satisfied only by building further supplemental storage terminals at each municipal and industrial site to be filled at times other than during the irrigation season, and even then supplemental storage terminals can supply the industrial requirements only if all thermal power plants are located in the Burnham area.
- e. The cost of the Navajo Irrigation Project has increased from \$135,000,000 authorized in the Act to \$175,000,000 due partly to the adjustment between 1961 and 1966 prices and the addition of the Gallegos Reservoir.

7. While stating that municipalities and industries could not be supplied by the Project unless additional storage terminals are built, the task force has not found and apparently has not investigated whether or not such storage terminals, as a physical practicality, could in fact satisfy all industrial and municipal requirements and further even if it is physically practicable there has been no investigation as to the capacities required, estimated costs for construction and maintenance, resulting evaporation losses, etc., and the extent to which these increased costs and uncertainty of water supply would discourage the development of industry.

8. On June 6, 1966, Senator Clinton P. Anderson introduced Senate Bill S. 3459 to increase the authorized appropriation from \$135,000,000 to \$175,000,000 and to add more land to the Navajo Irrigation Project outside the boundary of the Navajo Reservation to be held in trust by the United States for the Navajo Tribe, but it is quite certain that this Bill will not be passed during the current session of Congress.

9. Mr. Leon Hill, the Chairman of the task force re-evaluating the Irrigation Project, has stated that if the current session of Congress fails to pass the said Bill it is likely that the Project will proceed under one of the alternative plans providing for the irrigation of less than 110,630 acres and delivery of less than 508,000 acre feet per year.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council again states the

conditions agreed upon with the United States established in the Council's resolutions of December 12, 1957 (CD-86-57) and of April 28, 1966 (CAP-56-66):

- a. The land to be irrigated by the Project must not be reduced below the authorized 110,630 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.

2. The Navajo Tribal Council declares that these conditions must be fulfilled before it waives or compromises its paramount rights to the waters of the San Juan River.

3. The Navajo Tribal Council petitions Congress to maintain the good faith of the agreement between the Navajo Tribe and the United States by providing the necessary legislation and direction to complete the Navajo Irrigation Project in accordance with the conditions expressed above.

4. The Navajo Tribal Council hereby authorizes and directs the Director of the Resources Division, with the assistance of the Legal Department and such other Tribal personnel and consultants as he may deem necessary, to draft such amendments to the proposed Re-evaluation Report,

Navajo Indian Irrigation Project, New Mexico (July, 1966 - revised August, 1966), as are necessary to make said proposed Re-evaluation Project consistent with the terms of this resolution, and said Director of Resources Division is further authorized and directed to forward said amendments to the Field Task Force at the earliest possible date with the recommendation that they be included in the final Re-evaluation Report.

\* \* \* \* \*

CARL BEYAL: With that before anyone else makes a comment or any action taken we'd like to just announce to the Council there are attachments to this proposed resolution. We assume that this is just for your information and there are copies of the resolution CD-86-57 which is mentioned throughout the proposed resolution, and with that there is the Bill also mentioned in your resolution and then finally one more resolution of the Council CAP-56-66.

THE CHAIRMAN: In that we have the proposal read to you--we'd like to call upon Mr. Hatathli to perhaps, make any additions or other explanation that is appropriate and following that it will be up to the Council to consider.

NED HATATHLI: Thank you, Mr. Chairman, Members of the Navajo Tribal Council: To go back on that subject matter let me take you to the first task force meeting which was held in Farmington at which time members of the Advisory Committee attended the session. This was April 8th, 1966. The purpose of that meeting at the time was to explain the reason for and the objectives of the re-evaluation study proposed by the Secretary of the Interior. Those of you who have attended that session would recall that we objected to the proposal in that we believe that we have a firm commitment from Congress in accordance with the Act, 1962, which the Act authorized the Navajo Irrigation Project. The second meeting was held again in Farmington May 3rd. At that time the subject matter was the development of the recommendation with respect to the size of the main canal. Now this was presented by the Engineering Committee of that task force and then at the time they made the recommendation that the present size--the present designed canal as recommended which is 1800 cfs be adopted from Navajo Dam to the Kutz Pumping Plant. The third meeting was held in Window Rock, June 7th. Now at this meeting reports were made by the various committees of the task force. Now they had a committee on the engineering which had to do with the designing of the canals. They had committee on the availability of water which I believe was part of the engineering committees. They had a committee on pumping and they had a committee on other industrial developments. Now June the 7th, they made these reports which in July they made up the preliminary report which was submitted to the final meeting of the task force in Farmington. This was July 21st to review the summary report. At that time certain amendments

were made which was submitted by me and to the various people who had copies of this preliminary report -- a draft of the preliminary report, I should say. Now these were submitted in August. As soon as we have received the preliminary draft of the report we merely submitted copies and all of the amendments made at the time to Mr. H. T. Person of Laramie, Wyoming, who has been selected as a consultant to the Navajo Tribe, or consulting engineering to the Navajo Tribe on this irrigation matter. You will recall, some of you will recall, Mr. Person has been the consulting engineer for the Navajo Tribe from the beginning when we first went into this matter of the Navajo Irrigation Project. On August 30th, Mr. Person submitted a letter to me and pointed out certain things which should be clearly understood and some of the things which are still questionable in this report that was drafted by the task force. Now there are two main points which we are not quite clear and which resulted in the request of this Council to approve this resolution at this time.

Now one of the most important clarification which the Tribe should have is that the Navajo irrigation facilities as recommended by this report. In Mr. Person's analysis he says by interpretation of his letter that he believes the Navajo Irrigation Project simply would not--would not be adequate to irrigate an alternate 110,630 acres unless the Gallegos Reservoir is built. The objection to provide the insufficient capacity to irrigate the full 110,630 acres seems to be that there is not that quantity of land now on the Navajo Reservation suitable for irrigation, but I believe that this is not sufficient justification for reducing the size and facilities to handle less than 508,000 acre feet per year because there is sufficient irrigable land in the area which can be added to the project. And now because of this inadequate justification for reducing the size and facilities to handle the 508,000 acre feet of water per year, it is recommended that other lands be added in the off Reservation area. Let me point this out here. Here's the Navajo Reservation line right here (indicating the map) and approximately 2/3 of the land to be irrigated is located in the off Reservation areas. This is the subject matter, one of the subject matters of the proposed Bill, Senate Bill s. 3459 which was introduced by Senator Anderson wherein he is trying to add additional townships to the Act of 1952, so that we take in other lands. I think there were 8 townships altogether. These townships are also located here (indicating the map). I'd like to comment on the Bill that this Bill as far as we know, as of the last report, September 21st, 27th, pardon me, was before the Power and Resources Subcommittee and they made the recommendations or rather they requested recommendation from the Interior and Budget but no action was scheduled and as late as September 30th last week there was no companion Bill introduced in the House. Now then the second suggestion from Mr. Person has to do again with the amount of water to be carried to the canals. The present capacity of the canal which the task

force recommends which is 1800 cfs would carry sufficient water if they include the Gallegos Reservoir to irrigate the 110,630 acres, but the question is, how are we going to get sufficient water for industrial and municipal purposes? We have applications, that is the companies who are negotiating with the Tribe, have applications to the Secretary for M&I water but there's no way that they can get this water down into the area where they propose to develop the resources of the Tribe except through the Navajo irrigation facilities.

As it has been pointed out in this resolution that we need additional information as to what supplemental storage facilities would be required and about water that these storage facilities would hold before we are to realize any M&I water for the development of our natural resources especially the coal. These are the points which have been criticized by our consultant which is the subject of this resolution. I'd like to request the Council to take a good look at this resolution as has been read here.

The other provisions which we have here are plainly spelled out as I have reiterated in the resolved provision where we are standing pat on the 110,630 acres and the annual diversion of 508,000 acre feet of water for irrigation purposes only. Then, too, we are requesting that this project be exclusively for Indian use and that any lands in the off Reservation area sufficient to meet the needs of the 110,630 acres of irrigable lands be transferred into trust status to the Reservation and that no use in New Mexico of water from San Juan River not authorized, be given up by the Navajo Irrigation Project and that also that the irrigation project facilities be constructed with capacity to supply industrial and municipal means without reducing the 508,000 acre feet authorized for irrigation. It would mean additional storage terminals and the rest is what the Council declares that these conditions be fulfilled before it waives or compromises its paramount rights to the waters of San Juan River. And that we request or petition Congress to maintain good faith and that there we be given the authority to make these amendments or request those amendments to the task force report. If there are any questions we'll try to answer them. Mr. Lavell is here he's gone into the legal aspects of this report and this has also been reviewed by Mr. Haggard, one of the attorneys from the Washington office. Mr. Taliman has been in most of the meetings of the task force. (Laughter)

JOHN BROWN: Members of the Council, Mr. Hatathli: I'd like to ask one question in particular of you. That is we remember that about 2 and 1/2 years ago when we discussed this the Council approved a different resolution. At this time, I think the anticipation of the completion of the full irrigation project will be all completed within 15 years I think it was. I'd like to know--with this present bill in effect--what difference would it make? Will this still be in the same operation as it

was expected in the first resolution that we passed? I just wanted to know that.

NED HATATHLI: Mr. Chairman, Members of the Council: Mr. Brown, I don't recall any resolution by the Council except that one that was passed April 28th of this year, 1966.

Now this resolution of April 1966 was the Council objecting to the proposed re-evaluation of the Navajo Irrigation Project but they went ahead and re-evaluated the project-proposed project and have submitted a report. Now this resolution that we are considering is to supplement or amend request for amendment of these reports authorization which is not any different from the position that we took in this resolution in April.

WILSON HALONA: Mr. Chairman and Tribal Council, BIA and Tribal Staff: I'm just going to make a motion to approve this resolution.

TYLER HARRIS: I second that motion, Mr. Chairman.

THE CHAIRMAN: Members of the Council: Mr. Halona has moved that we adopt the resolution as presented here and the Chair recognizes Mr. Harris seconding that motion.

CHORUS: Question.

THE CHAIRMAN: Those approving indicate so by standing; those in opposition.

CARL BEYAL: Mr. Chairman, Members of the Council: The vote 58 in favor; none opposed.

CHORUS: Recess.

THE CHAIRMAN: With that action we'd like to now go to the other prepared item, so may we have that.

CARL BEYAL: Mr. Chairman, Members of the Council: As requested by the Chairman we have Item Number 7 on your agenda. Here we'd like to explain to the Council members that there are 4 proposed resolutions drafted for your consideration and to simplify matters we would like to go to each one separately. So right now the proposed resolution for Kinnebetto transferring to Standing Rock is being handed out.

THE CHAIRMAN: By now then we would like to have that--we'd like to have that proposed resolution read.

CARL BEYAL: Mr. Chairman, Members of the Council: Here's the proposed resolution of the Navajo Tribal Council, it's authorizing relocation of the Navajo Police Substation from Kinnebetto to Standing Rock, New Mexico.