

Class "C" Resolution
No BIA Action Required.

RESOLUTION OF THE
ADVISORY COMMITTEE OF THE
NAVAJO TRIBAL COUNCIL

Recommending to the Navajo Tribal Council the Approval
of the Special Services Contract for the San Juan Stream
Adjudication (Reynolds v. United States, 11th Judicial
District of New Mexico, #75-181) with the General Counsel
of the Navajo Nation, Vlassis, Ruzow & Linzer, and
Authorizing the Expenditure of \$128,333.00 of Revenue
Sharing Funds from the Economic Development Fund
for the Costs of this Litigation for the Period
May 1, 1976 - April 30, 1977

WHEREAS:

1. There is presently pending in the District Court for the 11th Judicial District of the State of New Mexico (San Juan - McKinley Counties) a stream adjudication action (Reynolds v. United States, et al., #75-181) which seeks to determine all water rights (surface and subsurface) in the San Juan Basin in New Mexico, including those of the Navajo Nation; and
2. While the United States is presently attempting to represent the interests of the Navajo Nation, it is also representing the interests of two other Indian Tribes, the Bureau of Reclamation, the San Juan-Chama Project, the Forest Service and other parties whose interests are or may be in conflict with those of the Navajo Nation; and
3. The only ways the Navajo Nation could be assured that its water rights will be adequately protected would be for the United States to only protect Navajo rights -- a position it has not taken, or for the Navajo Nation to have its General Counsel represent the interests of the Navajo Nation in this action; and
4. Past experience has shown that the budgeted funds for the Office of the General Counsel are not sufficient to meet the variety of present legal matters concerning the Navajo Nation, together with major litigation matters such as the Navajo-Hopi Land Dispute or this San Juan Water litigation; and
5. By Resolution CJA-20-74, the Navajo Tribal Council set aside 40% of General Revenue Sharing funds for economic development purposes as approved by the Chairman of the Navajo Tribal Council and the Economic Development and Planning Committee of the Navajo Tribal Council; and

6. The Federal Office of Revenue Sharing has ruled that the expenditure of General Revenue Sharing funds for litigation expenses in the San Juan Stream adjudication is an appropriate use of such funds; and

7. The Navajo San Juan Water Commission has unanimously recommended that Revenue Sharing funds be used for this purpose; and

8. The Director of the Office of Navajo Revenue Sharing and the Chairman of the Navajo Tribal Council have both approved the expenditure of Revenue Sharing funds for this purpose; and

9. The Economic Development and Planning Committee of the Navajo Tribal Council, because of the importance of this matter to the entire Navajo Nation, has referred this matter to the Advisory Committee of the Navajo Tribal Council for action; and

10. A proposed Special Services Contract between the Navajo Nation and Vlassis, Ruzow & Linzer has been prepared for legal services in connection with the San Juan Stream adjudication and is attached hereto as Exhibit "A".

NOW THEREFOR BE IT RESOLVED THAT:

1. The Advisory Committee of the Navajo Tribal Council recommends to the Navajo Tribal Council that the "Attorneys Special Services Contract", attached hereto as Exhibit "A" between the Navajo Nation and the General Counsel, Vlassis, Ruzow & Linzer, be approved.

2. The Advisory Committee of the Navajo Tribal Council further recommends to the Navajo Tribal Council that \$128,333.00 of General Revenue Sharing funds from the Economic Development fund be used to pay the litigation expenses incurred pursuant to this Contract.

3. The Advisory Committee of the Navajo Tribal Council further recommends that all unencumbered appropriated funds lapse as of June 30, 1977 and all unexpended funds revert to the Economic Development fund.

4. Because the impact of this expenditure is one that will involve the entire Navajo Nation, the Advisory Committee of the Navajo Tribal Council further recommends to the Navajo Tribal Council that the Office of Navajo Revenue Sharing be directed to charge each county with its appropriate share of the Revenue Sharing funds in accordance with the allocation guidelines.

5. The Advisory Committee of the Navajo Tribal Council finally recommends to the Navajo Tribal Council that the Chairman of the Navajo Tribal Council be authorized and directed to take all necessary action to implement the Navajo Tribal Council resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Advisory Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 16 in favor and 0 opposed, this 28th day of June, 1976.

Wilson C. Skut

Vice Chairman
Navajo Tribal Council

THIS AGREEMENT, made and entered into as of the 1st day of May, 1976, by and between the NAVAJO NATION and the law firm of VLASSIS, RUZOW & LINZER, having its principal office at 1545 West Thomas Road, Phoenix, Arizona 85015 (hereinafter called "the Attorneys").

W I T N E S S E T H:

WHEREAS, the State of New Mexico has commenced a stream adjudication action in the 11th Judicial District of the State of New Mexico (San Juan-McKinley Counties) known as Reynolds v. United States, et al., (No. 75-184) seeking to adjudicate all water rights (both surface and sub-surface) within the San Juan Basin in New Mexico, including those of the Navajo Nation; and

WHEREAS, the conflicts of interest of the various parties the United States is seeking to represent make it impossible for the United States to adequately protect and defend the water rights of the Navajo Nation; and

WHEREAS, the water rights of the Navajo Nation have a potential value of at least several hundred million dollars; and

WHEREAS, the Attorneys are presently representing the Navajo Nation as its General Counsel pursuant to Navajo Tribal Council Resolution CAU-56-75; and

WHEREAS, the special problems inherent in any water adjudication and, in particular, one in which the financial and other consequences to the Navajo Nation will be of such great import and significance require a level of legal services far greater than that contemplated in the General Counsel's Contract entered into pursuant to Resolution CAU-56-75; and

WHEREAS, the Attorneys are willing and able to represent the interests of the Navajo Nation in this litigation and the Navajo Nation wishes to retain their services to do so.

NOW THEREFORE, in consideration of the premises, the parties hereto agree as follows:

1. Employment. The Navajo Nation hereby engages the Attorneys to act for and represent the Navajo Nation in the action entitled "Reynolds v. United States, et al." filed in the District Court for the 11th Judicial District of the State of New Mexico, both at trial and in connection with any appeal and, in furtherance of such services, to appear on behalf of the Navajo Nation before any court (including any Special Master appointed by any court), legislative body or executive or administrative department, agency or officer.

2. Term. The term of this agreement shall be for a period of three (3) years, commencing May 1, 1976, and concluding on April 30, 1979, or on a date a final judgment is entered in the case of Reynolds v. United States, et al., whichever is earlier. Either party may terminate this agreement at any time on sixty (60) days' written notice to the other party, with said termination effective at the end of said sixty (60) day period.

3. Compensation for Services. The Attorneys shall be compensated for services rendered hereunder at their normal hourly billing rates, which rates are adjusted periodically, but generally not more frequently than once each year. (A schedule of billing rates on May 1, 1976 given for those partners or employees of the Attorneys who have already worked on the Reynolds v. United States case is attached as Exhibit "A").

The Attorneys shall give the Navajo Nation, through the Office of the Chairman, Navajo Tribal Council, or his designate, notice of any proposed changes in the schedule of billing rates at least sixty (60) days before the effective date of such changes.

Except as provided in Paragraph 4 of this Agreement, the Attorneys' compensation shall not exceed \$64,750.00 for the period May 1, 1976 - April 30, 1977, nor shall it exceed such amounts as may in the future be appropriated by the Navajo Tribal Council or any appropriate committee thereof or be provided by the United States in fulfillment of its fiduciary responsibility. In no event shall the Attorneys be required to perform legal services unless and until there are appropriated funds to pay for such services.

Not more than frequently than monthly nor less frequently than quarterly during the term of this Agreement, the Attorneys shall submit time charge billings to the Chairman, Navajo Tribal Council, or his designate, for his approval.

4. Expenses. Upon presentation to the Chairman, Navajo Tribal Council, of disbursement statements, the Navajo Nation shall reimburse the Attorneys for usual and necessary expenses, including, without limitation, traveling expenses (including mileage at fifteen cents (\$.15) per mile when personal automobiles are used or actual expenses involved when automobiles are rented), long distance telephone, telegraph, taxi fares, notary fees, costs of printing or reproducing documents, overtime stenographic services, stenographic services performed away from the principal office of Attorneys, and postage exceeding fifteen cents (\$.15) per mailing, witness and other expert fees; Provided, however, that reimbursement for such expenses shall not exceed \$63,583.00 for the period May 1, 1976 - April 30, 1977, without written authorization from the Chairman, Navajo Tribal Council, and the Secretary of the Interior, or his authorized representative, and further provided that for periods after April 30, 1977, that reimbursement for such expenses shall not exceed the amounts appropriated for such purposes by the Navajo Tribal Council or any appropriate committee thereof or the United States in fulfillment of its fiduciary responsibility without written authorization from the Chairman, Navajo Tribal Council, and

the Secretary of the Interior, or his authorized representative and Provided further that reimbursable expenses shall not include general office overhead, such as rent, light, heat at Attorneys' principal office or local telephone and postage less than fifteen cents (\$.15) per mailing.

If, in any given period, legal fees greater than then current appropriations are incurred, while a surplus remains in the legal expense account (or vice-versa), the Chairman, Navajo Tribal Council, or his designate, may authorize the transfer of funds between fee and expense accounts as he deems appropriate.

5. Written Reports. Not less frequently than quarterly, the Attorneys shall submit to the Navajo Tribal Council and the Navajo San Juan Water Commission written reports outlining the work performed by them.

6. Assignment. This Agreement shall be deemed personal and non-assignable. However, the addition or deletion of any partner or partners to or from the membership of the Attorneys' firm shall not terminate the obligations of the parties hereunder, which obligations shall be those of the reconstituted firm, if, but only if, the practice of the Attorneys' firm is continued by such reconstituted firm.

7. Governmental Approval. Prior to payment, all fees and expense vouchers shall be submitted for approval by the Secretary of the Interior or his duly authorized representatives. The Tribe's obligation to pay also is subject to the availability of funds from the Tribal Treasury or from an appropriation of Tribal funds by Congress.

8. New Mexico Counsel. In view of the jurisdiction in which Reynolds v. United States, et al., is filed and the applicable rules of the Court, the Attorneys may employ other counsel, including local associate counsel, who satisfy the requirements of Paragraph 10 of this Agreement, whose fees and expenses shall be included by the Attorneys on their own fee and expense statements submitted pursuant to Paragraphs 3 and 4 hereof and shall be paid by the Navajo Nation on the same terms.

9. Termination. This Agreement may be terminated for cause by the Secretary of the Interior after a hearing on reasonable notice. If the Secretary finds that the interest of the Navajo Nation so requires, he may suspend the contract and the payment of all compensation due or accruing to the Attorneys thereunder pending a hearing which shall be held without unreasonable delay.

10. Good Standing. The undersigned Attorney stipulates that he is a fully licensed member in good standing of the bar of the State of New York and the State of Arizona, and to the best of his knowledge no disciplinary proceedings have been instituted against him or any of his partners by any bar association of any jurisdiction of the United States or its territories which are pending and/or unresolved and he has not been disbarred or suspended from the practice of law in any jurisdiction in the United States or its territories.

THE NAVAJO NATION

By _____
Chairman of the Navajo Tribal
Council

VLASSIS, RUZOW & LINZER

By _____
A Member of Said Firm

BUREAU OF INDIAN AFFAIRS

By _____