

Contract No. 14-06-W-269

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Navajo Indian Irrigation Project, New Mexico

Agreement Between the United States and the Navajo Tribe of Indians  
for Delivery of Water from Navajo Reservoir.

THIS AGREEMENT entered into the 10th day of April, 1976, between the UNITED STATES OF AMERICA ("United States"), acting through the Secretary of the Interior, and the NAVAJO NATION ("Navajo Nation"), also known as the Navajo Tribe of Indians, pursuant to the Act of Congress of April 11, 1956 (70 Stat. 105); the Act of June 13, 1962 (76 Stat. 96) (hereinafter referred to as "the Act"); and the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385); all as amended or supplemented.

WITNESSETH:

WHEREAS, the United States is in the process of constructing the Navajo Indian Irrigation Project ("the project") for the principal purpose of furnishing irrigation water; and

WHEREAS, the Navajo Nation wishes to enter into a contract with the United States for the delivery of water from said project to Navajo lands.

NOW THEREFORE, it is mutually agreed as follows:

I. Definitions.

When used herein, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof, the term:

a. "Act" shall mean, unless otherwise specified, the Act of June 13, 1962, 76 Stat. 96.

b. "Project Works" shall mean those facilities of the Navajo Indian Irrigation Project constructed pursuant to the Act of June 13, 1962.

c. "Contracting Officer" shall mean the Commissioner of the Bureau of Reclamation, or his duly authorized representative.

II. Delivery of Water.

Section 2 of the Act provides that pursuant to the provisions of the Act of April 11, 1956 [Colorado River Storage Project Act], as amended, the Secretary of the Interior is authorized to construct, operate, and maintain the Navajo Indian Irrigation Project for the principal purpose of furnishing irrigation water to approximately one hundred and ten thousand six hundred and thirty acres of land, said project to have an average annual diversion of five hundred and eight thousand acre-feet of water and the repayment of the costs of construction thereof to be in accordance with the provisions of said

Act of April 11, 1956, as amended, including, but not limited to, section 4(d) thereof. The Contracting Officer shall deliver water to the Navajo Nation in accord with the foregoing sentence, such deliveries to be made through the main canal headworks at Navajo Dam for the Navajo Indian Irrigation Project.

III. Sharing of Shortages.

In any year in which the Secretary anticipates a shortage of water taking into account both prospective runoff originating above Navajo Reservoir and the available water in storage in Navajo Reservoir, he shall provide for a sharing of the available water in the following manner: The prospective runoff shall be apportioned between the contractors diverting above and those diverting at or below Navajo Reservoir in the proportion that the total normal diversion requirement of each group bears to the total of all normal diversion requirements. In the case of contractors diverting above Navajo Reservoir, each such contract shall provide for a sharing of the runoff apportioned to said group in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements of all such contracts that have been made hereunder: Provided, That for any year in which the foregoing sharing procedure either would apportion to any contractor diverting above Navajo Reservoir an amount in excess of the runoff anticipated to be physically available at the

point of his diversion, or would result in no water being available to one or more such contractors, the runoff apportioned to said group shall be reapportioned, as near as may be, among the contractors diverting above Navajo Reservoir in the proportion that the normal diversion requirements of each bears to the total normal diversion requirements of the group. In the case of contractors diverting from or below Navajo Reservoir, each such contract shall provide for a sharing of the remaining runoff together with the available storage in the same proportion as the normal diversion requirement under said contract bears to the total normal diversion requirements under all such contracts that have been made under the Act. The Secretary shall not enter into contracts for a total amount of water beyond that which, in his judgment, in the event of shortage, will result in a reasonable amount being available for the diversion requirements for the Navajo Indian Irrigation Project and the initial stage of the San Juan-Chama project as specified in sections 2 and 8 of the Act.

No long-term contract, except contracts for the benefit of the lands and for the purpose specified in sections 2 and 8 of the Act, shall be entered into for the delivery of water stored in Navajo Reservoir or of any other waters of the San Juan River and its tributaries, as aforesaid, until the Secretary has determined by hydrologic investigations that sufficient water to fulfill said contract is reasonably likely to be available for use in the State of New Mexico during the term thereof under the allocations made in

articles III and XIV of the Upper Colorado River Basin compact, and has submitted such determination to the Congress of the United States and the Congress has approved such contracts: Provided, That nothing contained in the foregoing shall be construed to forbid the Secretary from entering into temporary water supply contracts in the San Juan River Basin for any year in which he determines that water legally available for use in the upper basin of the Colorado River system would otherwise not be used there and is not needed to fulfill the obligations of the upper division States with respect to delivery of water at Lee Ferry.

#### IV. Compacts, Project Acts, and Treaty.

The use of water, including that diverted from the Colorado River system to the Rio Grande Basin, through works constructed under authority of the Act, shall be subject to and controlled by the Colorado River compact, the Upper Colorado River Basin compact, the Boulder Canyon Project Act, the Boulder Canyon Project Adjustment Act, the Colorado River Storage Project Act, and the Mexican Water Treaty (Treaty Series 994), and shall be included within and shall in no way increase the total quantity of water to the use of which the State of New Mexico is entitled and limited under said compacts, statutes, and treaty.

V. Surplus Crops.

Delivery of water for production of surplus crops shall be in accordance with section 6 of the Act of June 13, 1962.

VI. Project Operation Information.

The Navajo Nation shall furnish to the Contracting Officer, as requested, information pertaining to land use and crop census, water supply, water use, changes in project works, and to other matters relating to the Navajo Indian Irrigation Project.

VII. No Waiver.

The Navajo Nation does not waive any reserved Winters rights or consent that such rights have been or will be determined or limited by the Act of June 13, 1962, by execution of this agreement, or by delivery of water pursuant to this agreement; and the United States does not waive its right to assert a position on these issues which is neutral, in support of, or contrary to that of the Navajo Nation.

VIII. Term.

This agreement shall continue in effect for a 40-year period, and shall be subject to renewal at the option of the Navajo Nation for additional periods of 40 years.

IX. Notices.

Any notice, demand, or request authorized or required by this agreement shall be deemed to have been given when mailed, or delivered to the Commissioner of the Bureau of Reclamation, United States Department of the Interior, Washington, D.C. 20240, or his designated representative on behalf of the United States and to the Chairman, Navajo Tribal Council, Window Rock, Navajo Nation, Arizona 86515, on behalf of the Navajo Nation. The designation of the addressees or the addresses may be changed by written notice.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed the day and year first hereinabove written.

THE UNITED STATES OF AMERICA  
Department of the Interior

By /s/ G. G. Stamm  
Commissioner, Bureau of Reclamation

NAVAJO NATION

By /s/ Peter MacDonald  
Chairman, Navajo Tribal Council