

taking care of the convention. So that problem arrives where perhaps the ninety-seven representatives might appear at the central nominating convention and all the delegates should decide on one candidate. Then what should happen? We just got one running, and then you perhaps might be asked to choose another one. Is there such a provision for that, what are we going to do? I'd like to ask the Chairman of the Board to give us some specifics as to why it was necessary that this central convention should be implemented and this can be placed on the blackboard for better understanding, because this and its effect will affect all of our Navajo people. As far as the time limitation for the individual to take the floor as was stated two minutes, this has not become the law yet, I have not seen any resolution on it. Now I'd like to see proper justification provided at this time why the calling of a central nominating convention.

FRANKIE HOWARD: Mr. Chairman, Members of the Tribal Council:

THE CHAIRMAN: Perhaps we should allow the question to be answered at this time.

JAMES ATCITTY: Mr. Chairman, Members of the Navajo Tribal Council: In response to Mr. Luther's question on why was the four-province convention looked over and have only one central convention recommended? As we're all aware, in the past few elections, the four provinces were set up and we called some of the former election officials in on this, to help us, enlighten us on this one subject, and the way that we understood was at that time when this was first set up there was a transportation problem. There weren't very many cars or very many pickups on the Reservation and also the roads weren't too good. But it was also their feeling, that nowadays, there are more roads, better roads, more paved roads on our Reservation, and we come to travel more extensively from one part of the Reservation to the other, and that there are more vehicles on the Reservation, and this was our number one reason for recommending that there be one central convention. Our reason number two, was seven years ago, when they had this election as a result of the four provinces, we had only one candidate for Chairman of the Navajo Tribal Council in that general election, and there were many words said and there were many things said in regard to this one rule, and there were many people that were dissatisfied, that was our reason number two. And our reason number three, was back in the last election three years ago, the other extreme happened, we had three candidates for the office of Chairman of the Navajo Tribal Council. Consequently, one of them won, and to this day we have heard all kinds of things said here in the Council and elsewhere, that the present Chairman was not elected by the majority of the voters that voted in the last Tribal election, and that he was just a minority Chairman. These are some of the things, these are the three main things that we considered when we recommended that there be only one central convention. In regard to the other



question, there are provisions for the convention procedures and what would happen if all seventy-four delegates from all over the Reservation voted for one candidate. We have provisions in there where there will be a second roll call, where they will be able to change their vote and this method could be used in order to find the second candidate for the office of Chairman.

FRANKIE HOWARD: Mr. Chairman.

FRANK LUTHER: (In Navajo.)

THE CHAIRMAN: (In Navajo.)

FRANKIE HOWARD: He already spoke, why does he have the floor again?

FRANK LUTHER: Mr. Chairman, Members of the Council: My question has not been answered to my satisfaction. In the prior years the method we used in the four convention places were that the chapters, the ninety-seven chapters would appoint a delegate to go to this convention with the specific instruction that they would nominate a certain delegate, with this he would represent that chapter. Would this same practice be made to that advantage in the central convention level? That is what I was getting to. I say this because if the vote is a majority, would this particular delegate that is supposed to have been representing and instructed to make only one certain delegate, be caused to make a second choice or vote twice to appoint someone else? Is this how your central convention would perform its function as appointing the delegates for--appointing candidates for Chairman's office? Or is the central nomination to be made available where they have a general nomination representing all of the chapters instead of one delegate representing a chapter?

THE CHAIRMAN: Members of the Council: We have only one hour left before five. I understand that from Legal Department as well as from Resources Division Director that there has been a problem arise in respect to the Navajo Irrigation Project which an answer from this Council is needed before meeting of the Council elsewhere on the matter. Therefore, I would like to ask the Council at this time to defer this subject matter and to continue with it in the morning when we reconvene. Now we will go to the Navajo Irrigation Project matter.

CARL BEYAL: Mr. Chairman, Members of the Council: As announced by the Chair, we understand that the proposed resolution has been developed for the Tribal Council to perhaps act on that. But meanwhile, we have the Director of the Resources Division, Mr. Hatathli here, who perhaps can fill you in as to what has happened and is happening so that you will be in a position to perhaps act accordingly on the resolution that he has.

THE CHAIRMAN: Ned Hatathli.



NED HATATHLI: Thank you, Mr. Chairman, Members of the Navajo Tribal Council: Most of you are probably aware that the Secretary of Interior has requested a re-evaluation study be made of the Navajo Irrigation Project. This was instigated in answer to a letter from Senator Anderson to the Secretary dated December 1st, 1965. The Secretary's letter to Anderson, in answer to Anderson, was dated February 16th, 1966, at which time this re-evaluation study was recommended by the Secretary basing their conclusions upon the fact that some of the Navajo Irrigation water allocated to the Navajo Tribe possibly could be used for other purposes, namely municipal and industrial water, and thus cutting down the acreage to possibly seventy-seven thousand from that original one hundred and ten thousand six-hundred thirty acres. The Advisory Committee met with the representatives of the Bureau of Reclamation, representatives of the Secretary's office and representatives of the Bureau of Indian Affairs at Farmington earlier this month, April 8th, I believe it was, at which time the Committee members, as well as the Chairman of the Navajo Tribal Council, placed before this group their objections to this re-evaluation study and requested that before the Tribe takes a position, that this should be reported to the Navajo Tribal Council for their recommendation. Regardless of what position of the Tribe was at the time, the task force or the Committee recommended --appointed rather by the Bureau of Reclamation and the Secretary went forth with the re-evaluation study. Tomorrow I understand that there is a meeting of a work group from clearing the re-sizing of the canals, the tunnels and the canals, and then there are other work groups meeting tomorrow in regards to this proposal of reducing the original proposal or the original authorization for the Navajo Irrigation Project. Now, that briefly is the substance of the resolution, and at the meeting at Farmington, I would like to briefly inform you, and then also in my previous contact with the Bureau of Indian Affairs as well as with the Secretary of Interior's staff members, we have taken a position that we oppose this re-evaluation study, because in the first place we are concerned about more delays in the construction of the project, and then too, if they are going to consider re-sizing of the tunnel that would mean only one thing, and that is they're going to make the size of the tunnel smaller than what was originally planned, therefore, reducing the water allocated to the Navajo Tribe to be delivered to the Navajo Reservation. And then, three, if they are considering the availability of industrial municipal and industrial water, we know that there are waters available subject to the approval of the Secretary of Interior and the Congress for this specific purpose. We know that they have two-hundred thousand acre feet of water available for municipal and industrial purposes which is available to the Tribe if and when we apply for it. Therefore, there is no need of allocating any of the water from our irrigation project,



and four, if the re-evaluation studies indicate that there is justification for reducing the acreage as well as the water allocated to the Navajo, then there is only one way it could go, and that is to go back in the pool for M & I purposes, and it's available to anyone else who applies. In other words that would mean we would lose the water rights, and--

CARL BEYAL: Mr. Chairman, Members of the Council: Here is the proposed resolution of the Navajo Tribal Council, Objecting to Proposed 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

Objecting to Proposed Re-evaluation of the Navajo Irrigation Project

WHEREAS:

1. Senator Clinton P. Anderson of New Mexico has proposed to Secretary of the Interior Udall, and the Secretary has agreed that the Navajo Irrigation Project totalling 110,630 acres of land as authorized by the Act of June 13, 1962 (76 Stat. 96) shall be "re-evaluated" with the objective of reducing said irrigation project to approximately 77,000 acres, in order to make available more water for municipal and industrial purposes, allegedly on the grounds of increased costs of reducing the proposed acreage.

2. Factors now relied upon in proposing such changes were well known when the said Act of June 13, 1962 was passed, and the acreage deemed feasible for irrigation purposes was changed for various reasons from the original amount of 137,250 acres in the Feasibility Report of January, 1955, to the amount of 110,630 acres for Navajos only in a Supplemental Feasibility Report of March, 1957. The project was accordingly designed, planned and authorized by Congress to provide for irrigating 110,630 acres with an average annual diversion of 508,000 acre feet of water for this purpose--all represented to Congress as the principal reason for passage of said Act.

3. In addition to federal lands to be embraced in the Navajo Irrigation Project, the Navajo Tribe has proceeded in good faith in reliance upon said Act in purchasing privately owned land at a substantial cost to the Tribe for inclusion in said project, in order to assure and carry out the principal objective or relocating approximately 2,000 Navajo families and offering direct and indirect employment to approximately 17,000 Navajos through direct and



collateral forms of employment, all as set forth in Senate Report 83 (87th Congress, 1st Session, pages 6-10), in a letter from the then Secretary of the Interior to Senator Anderson and in said Act of June 13, 1962 (76 Stat. 96, Sec.2).

4. The Navajo Tribal Council endorsed and supported the passage of the Act by Resolution CD-86-57, dated December 12, 1957, and again by Resolution CMA-14-64 dated March 2, 1964, authorizing substitution of other lands more practicably usable for the irrigation project pursuant to the Act of June 13, 1962 (requesting Congress to amend said Act to include lands in Township 26 North, Ranges 11, 12, and 13 West, and Township 27 North, Range 11 West, N.M.P.M.) The Navajo Tribal Council also authorized the signing of a contract between the Navajo Tribe and the United States for delivery of water to said project, which said form of contract was signed and sent to Secretary Udall in July, 1964, but has never been acted upon by Secretary Udall.

5. Throughout said Tribal Council resolutions and at all times in supporting the passage of the Navajo Irrigation San Juan Chama Act of June 13, 1962, the Navajo Tribe has in good faith relied upon the commitments of all parties, including the congress of the United States, to create said Navajo Irrigation Project of 110,630 acres and commit thereto an annual diversion of 508,000 acre feet of water, and in addition the Tribe would be entitled to apply for and receive a reasonable portion of an additional 200,000 acre feet which Secretary Udall has found to be available for municipal and industrial purposes. Said advantages and considerations moving to the Tribe would be greatly impaired, and the principal purpose of the Act defeated, if the irrigation project is now reduced in size and the water to which the Tribe is rightfully entitled is made available for municipal and industrial purposes to the great advantage of New Mexico and Albuquerque, and industries to be served.

6. The Navajo Tribe in good faith, and in deference to its neighbors in Albuquerque, New Mexico, compromised its legal rights under the Doctrine of Winters vs. United States 207 U.S. 564 (see proposed contract between the Tribe and the United States, P.P. 10g) by agreeing to share shortages of water from the San Juan instead of insisting upon the Tribe's paramount rights, all in consideration of the foregoing and other advantages to the Tribe, such as benefits of the Levitt Act applicable to this irrigation project.

7. The Tribe now notes that the San Juan-Chama Diversion Tunnel originally planned for a capacity of 235,000 acre feet was built to a far greater capacity, which said capacity could only be filled by diversion of water rightfully belonging to the Navajos pursuant to the arrangement sought by Senator Anderson and Secretary Udall in "re-evaluation" of



the Navajo Irrigation Project about which the Navajos first learned by reading in the newspapers.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council reaffirms and confirms the conditions established by this Council in its Resolution of December 12, 1957 (CD-86-57), namely the following.

- (a) The Navajo Irrigation Project not be reduced below a net area of 110,630 acres.
- (b) The authorized annual diversion requirement of the Navajo Irrigation Project not be reduced below 508,000 acre feet.
- (c) The project be exclusively for Indian use and the legislation provide for acquisition and transfer into trust status of the presently off-Reservation areas susceptible to irrigation as part of the project.
- (d) No use in New Mexico of water of the San Juan River not heretofore authorized be given priority ahead of the Navajo Irrigation Project.

2. The Navajo Tribal Council finds that the reasons assigned by Senator Anderson and Secretary Udall for "re-evaluation" of the Navajo Irrigation Project, namely increased cost of construction and related factors, are insincere for the following principal reasons:

- (a) The Tribe's proposed contract for receiving the water has been on the desk of Secretary Udall since July, 1964, at which time had Secretary Udall not improperly delayed his official action of approving the contract, the increased and inflated costs of today would not have been present;
- (b) All other government projects are subject to the same increased inflationary costs but such other projects are not abandoned for this reason;
- (c) Factors now relied upon in proposing this "re-evaluation" were well known when the Act was passed on June 13, 1962, and no new factors have arisen since the Act provides for covering additional costs due to changes in construction cost, based on June, 1961 construction costs, (Section 61500 of the Act).
- (d) The purpose of the Act, namely the resettlement

of 2,000 or more Navajos and employment of approximately 17,000 Navajos from a failing, grazing economy to a sustaining agricultural way of life on this irrigation project is even of greater force today than when the Act was proposed and approved by Congress.

- (e) The tunnel called for in the original San Juan-Chama diversion plan was to have a capacity of 235,000 acre feet, however, the tunnel as actually built has a capacity for in excess of 235,000 acre feet. The excess amount to be carried by this tunnel could be obtained from only one source: water rightfully belonging to the Navajos.

3. Unless the Navajo Irrigation Project is carried out to completion as contemplated by the Act of June 13, 1962, the Navajo Tribal Council hereby finds a complete failure of consideration and therefore revokes any past actions of the Navajo Tribal Council in compromising or in any way waiving the Winters Doctrine.

The Council hereby gives notice that the Navajo Tribe will assert any and all rights thereunder against any person or governmental bodies whatsoever who might seek to divert water from the San Juan River or its tributaries in any manner or for any purpose inconsistent with the defined objectives and purposes of said Act of June 13, 1962. The General Counsel of the Navajo Tribe in Washington, D.C. and the Tribe's Legal Department are hereby authorized and directed to take any and all steps deemed necessary, advisable to incidental to carrying out the purposes of this resolution, including the full assertion of the Winters Doctrine, under any circumstances and by any means deemed by them appropriate in the event of any departure from the purposes of the Act of June 13, 1962 in diminution of the conditions heretofore and herein approved by the Navajo Tribal Council.

4. The Navajo Tribal Council on behalf of the Navajo people hereby memorializes Congress that the Navajo Tribe has complete faith that the Congress will keep faith with the commitment which it made in passing the Act of June 13, 1962, and will not allow any deviation therefrom.

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FRANK BRADLEY: Mr. Chairman, Members of the Tribal Council: I would like to make a motion that we approve the resolution as presented.

CARL TODACHEENE: Second. I second the motion, Mr. Chairman.



FRANK LUTHER: Mr. Chairman, Members of the Council: I have a question I'd like to pose at this time pertaining to this proposed resolution. The way that the document is drafted it more or less reflects the Udall versus Littell own personal problems which it insinuates that it will reflect the manner the two are doing one another, so to speak. Now in the explanation it states that so much of the water rights was given to the Navajos, yet in the process only five hundred eight thousand acre feet of water was being re-evaluated for the usage of the Navajos. I'd like to ask a question directing to the Bureau people as to further explain if this is so, why that they saw fit to deny the Tribe some of the water rights that was first committed and the portion to be used of industrial purposes? In the report it states that we have received this probability through newspaper media, why has there not have been a direct communication with the Bureau on this? What has been stated, is that true? That is my other question, So, my specific question is evidently that the Navajo Tribe is being given a re-evaluation of only five hundred eight thousand acre feet of water, in the first place the agreement with the Tribe, the industrial water had not been considered. Again, that leads me to wonder, why has not this been made in the first place known if such a purpose would have been for a good cause in behalf of the Tribe, but was not considered? Then is this the reason why the Secretary is re-evaluating here, to set some water aside for industrial purposes only, yet to be used elsewhere?

HOWARD GORMAN: Recess.

FRANK LUTHER: There is one question here, that I asked, you didn't interpret it. Under "whereas" on the resolution it stated here that you are reducing the irrigation project to seventy-seven thousand acres to make available more water for the industrial purposes. Is this industrial for other than Navajo Reservation? This is my question right here, I'd like to clarify on it.

THE CHAIRMAN: Members of the Council: I'll call a recess at this time and continue with the same subject, and the proper answer be provided tomorrow morning, and we will reconvene at 8:30 in accordance with the instructions from the floor of the Council, we will reconvene tomorrow morning at 8:30.

(Whereupon, the Navajo Tribal Council recessed 5:02 P.M., April 27, 1966, to reconvene on Thursday, April 28, 1966, at 8:30 A.M.)