

Class "C" Resolution
No BIA Action Required.

RESOLUTION OF THE
ADVISORY COMMITTEE OF THE
NAVAJO TRIBAL COUNCIL

Recommending to the Navajo Tribal Council That
It Set Forth the Navajo Position on Navajo
Water Rights

WHEREAS:

1. The State of New Mexico is presently seeking an adjudication of Navajo water rights in the District Court for the 11th Judicial District (San Juan-McKinley Counties) in the case entitled Reynolds v. United States (#75-184); and
2. Questions have arisen concerning the Navajo position on Navajo Winters Doctrine rights, and actions alleged to have been taken by Navajo Tribal officials in the past as well as the proper interpretation of certain Navajo Tribal Council resolutions; and
3. It is appropriate to serve notice upon all those who may question the extent and nature of Navajo water rights of the official position of the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Advisory Committee of the Navajo Tribal Council recommends to the Navajo Tribal Council that it adopt the following as the official position of the Navajo Nation with respect to Navajo water rights:

(a) The Navajo people have occupied Navajo Indian Country, as that term is defined in §134 of Title 7 of the Navajo Tribal Code, as well as millions of additional acres as established in the Claims Cases now pending before the Indian Claims Commission for hundreds of years -- long before any Anglo, Spanish or Mexican settlement;

(b) The Navajo people were confined to our present reservation by actions of the United States Government, including the Treaty of 1868 and various Acts of Congress and Executive Orders, and by so confining us to these limited arid lands, the United States assumed the responsibility of making water available to these lands for agriculture and other purposes;

(c) When the United States confined the Navajo people to the lands we presently occupy, it reserved for our use and benefit all the water necessary to irrigate all the arable lands in which we were confined (surface and ground water), together with all the water necessary for the foreseeable future for domestic, municipal, industrial and recreational use;

(d) It is the duty of the United States as our guardian and Trustee to both protect our water rights and provide the financial assistance necessary to irrigate our lands and provide water for domestic, municipal, industrial and recreational uses;

(e) The Navajo Nation having neither participated in or ratified the Colorado River Compact, the Upper Colorado River Basin Compact, or any other agreement among the various states along the Colorado River and its tributaries, declares that all such Compacts have no force and effect in the determination of Navajo water rights, the use by the Navajo Nation of water from said streams, and are of no force and effect in determining any rights of the Navajo Nation;

(f) The Navajo Nation reaffirms that the Navajo Indian Irrigation Project is a Federal Indian irrigation project, and that the Navajo Nation neither has nor does waive any of its Winters doctrine rights in connection with the construction, operation or maintenance of the project. The Navajo Nation further declares that water used by the Navajo Indian Irrigation Project is not chargeable to the Navajo Nation's Winters doctrine reserved water rights;

(g) The Navajo Nation declares that its rights to divert, use, lease or assign its Winters doctrine water is in no way dependent upon any quantification of its water rights, nor any State law, rule, or regulation, and that the Winters doctrine water of the Navajo Nation, whether used by the Navajo Nation (including its Enterprises as well as individual members of the Navajo Tribe) or its lessees or assigns may be used either within or without the Navajo Nation, in the sole discretion and determination of the Navajo Nation.

2. The Advisory Committee of the Navajo Tribal Council further recommends that the Navajo Tribal Council declare that all prior action by the Navajo Nation, whether by the Navajo Tribal Council, the Chairman of the Navajo Tribal Council, any Committee of the Council, any employee or attorney of the Navajo Nation which purports or implies to be or approve a position inconsistent with this official Navajo Nation position be declared to be unauthorized and null and void.

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