

tributaries for use on the Navajo tribal lands.

2. The Navajo Tribe of Indians, after having considered the proposed construction of the Colorado River Storage Project and participating projects, in which the Navajo Dam is one of the proposed storage projects and the Shiprock Indian Irrigation Project is one of the participating projects, and after having considered the claims of others to the beneficial use of a part of the waters of the San Juan River and its tributaries make claim to and request that a preferential right be established to divert and use annually 610,000 acre feet of water to supply the needs for the irrigation of a net area of 122,000 acres of land to be included in the Shiprock Indian Irrigation Project, not including present existing projects.

3. That the Chairman of the Navajo Tribal Council and Chairman of the Resources Committee of the Navajo Tribal Council be and they are hereby designated as representatives of the Navajo Tribal Council for the purpose of meeting with any Federal or State agencies, groups or associations for the purpose of negotiating any contracts or agreements needed or necessary to assure the amount of water for the San Juan River and its tributaries for the use and purposes set forth in this resolution. The said representatives shall not have the authority to make final commitment or bind the Navajo Tribe by any commitments or contract, but said representatives shall report the proceedings had at any such meeting or meetings of the Tribal Council and shall submit to said Tribal Council all proposed contracts, agreements or compacts or other proposed instruments considered at any such meetings for consideration by the Tribal Council.

4. That the tribal attorneys be and they hereby are authorized to secure, if possible, any amendment or amendments to the proposed act of Congress hereinabove mentioned, which will assure to the Navajo Tribe its share of the waters of the San Juan, and towards this end to collaborate with and report to the Chairman of the Tribal Council and the Chairman of the Resources Committee.

THE CHAIRMAN:

I think the Tribal Attorney will explain it paragraph by paragraph and in that way we will get a better picture of the Resolution but, before he comes up, I would like to call on John Claw, Jr., to come before the Council. He is the boy who won the prize for the seal.

JOHN CLAW, JR.

Thank you very much for this prize that I have won and for having confidence in me until I achieve something better. I thank you all very much.

THE CHAIRMAN:

Mr. Littell, will you come up now please?

MR. LITTELL:

Mr. Chairman, Members of the Council: The "Whereas" clauses of this Resolution recite what you already know - the existing controversy which affects the life of the reservation most vitally, as to your rights to the waters of the San Juan River and the rights of some very eager people from across the divide who would like to divert those waters to the Rio Grande.

This Resolution adopts finally a standard of the Navajo rights, which I am very relieved to see is now measured in acre feet instead of acres. What you are getting is water and not a number of acres which water will serve. Mr. Kisee, as an engineer, can give a much better engineering picture than I can, but this 610,000 acre-feet is the minimum which we would shoot at for the Navajo participation in the available water supply which is comparable to irrigating an area of 122,000 acres. Those are the standards specified in this Resolution.

The first paragraph of the "Resolved" part states on behalf of the Navajo Tribe that you have a prior and preferential right to all of the waters of the San Juan River and its tributaries for use on the Navajo tribal lands. That is an assertion of our base legal starting point which I have endeavored to maintain in all discussions in Washington, in letters to the Secretary of the Interior and all conferences held, that we start there with your prior legal rights. What other people can prove in the way of claims to the remaining water is secondary. That right is so fundamental and that legal position is so fundamental because it runs clear through the question of who gets the water in a year of shortage when there is not enough water to supply everybody with or that may be planned. Who gets cut off? We must fight hard to maintain that you do not get cut off and this comes first and foremost on the basis of your rights.

The second paragraph makes the finding on behalf of the Tribe and reveals that 610,000 acre-feet of water is enough to irrigate 122,000 acres. That is "it" as far as Navajo demands and rights are concerned.

The third paragraph appoints the Chairman of the Tribe and the Chairman of the Resources Committee, Mr. Howard Gorman, to be the Tribal representatives to attend the various conferences which will be held from time to time and which will become increasingly important. It does not give them the power to commit you to any compromise, but it does give them power to come back and recommend and report to you. Let me add my

comment to you that after having seen Mr. Ahkeah and Mr. Gorman operate as a team in Washington, in the Secretary of the Interior's office, that you have extremely competent representatives in those two men who hold up the traditions of the Navajo Tribe. They were looked up to and respected at the hearing in the Secretary's office and you would have been proud of the Navajos the way those two men handled a very complicated situation. You may forget sometimes how other Indian Tribes look to you and it was their ability at these conferences when so many were present. They looked at the Navajos as one of the best in the country and most effective and well organized and they have the utmost respect for you.

In taking this assignment, let me say here and now before the Council, that they face one of the most difficult they ever had. Every conceivable pressure they could think of was brought to bear on them to compromise the Navajo rights and every device, conversationally and otherwise, to get them into a situation where your rights are compromised. These conferences will not be for the purpose of compromise but for the purpose of discussion, enlightening your representatives and, in turn, the Tribal Council. Compromise, if any, can be talked of say at the end of the horse trading.

The last paragraph of this Resolution provides that the Tribal Attorneys be authorized and directed to secure amendment to the legislation proposed or to be proposed at the Conference to protect your rights in the water of the San Juan River and directs them to report to the Chairman of the Council and Chairman of the Resources Committee and the two representatives that you have selected here.

Mr. Charles Tansey, whom most of you met, is one of your attorneys under your contract, who lives in Farmington and he will be here Monday to take my place. He is very well acquainted with this San Juan project, living in that area. He is a strong advocate of your point of view and a great attorney and assistant to me in shaping up for what will be a very tough fight over these water rights. Water is the life blood of this western country, as you well know. All I have to do in Washington is to turn on the faucet and I get all I want. As far as I am concerned, representing you in this matter in Washington, I have already been coolly snubbed by some very important people who think that I am helping to stand in the way of the diversion of those waters to the Rio Grande. That matters not a bit to me. I stand absolutely firm on insistence of your legal rights to the last drop and I hope that my colleagues with whom I shall be associated and to whom I shall report and from whom I shall take further instructions, the Chairman of the Council and Howard Gorman, will stand just as firmly, right up to the hilt and get the maximum protection we can legally. The main battle will be in the Act to pass Congress. They can make you or break you right there. I am afraid we cannot get the whole river for you because there are a few other people who would like to have a drink now and then out of it, but we will

get all we can. I am going to sit down now, unless you have questions to ask me. But, since I have not been on the floor since you passed the Resolution extending my contract the other day in my absence, let me tell you that I never had anything in my legal practice that I appreciated more; the confidence that I enjoy with the Navajo people is one of the inspiring incidents of my legal life and the friendships that I have formed with it also and I want you to know how profoundly I appreciate your confidence and how ready and willing you were to take the step now. It was decided by the Advisory Committee and I knew nothing about it and they surprised me completely with it. My thanks to you.

Mr. Harper asked me to make clear that the Indian Bureau people in Washington did not snub me. That is certainly true.

I wish to acknowledge my indebtedness to Mr. Keesee, whose services in the technical problem are very great.

MR. HARPER:

I would like to say that you have a strong team and I think we have a strong team working with you. You have Mr. Keesee, our Agency Irrigation Engineer and Mr. Bucklin, our attorney, and also our Indian Service Water Attorney, Mr. Humphries, who lives in Los Angeles and who has been before the Council several times. I feel that we have a strong team to work with you and I think the Resolution before you is a good illustration of how the two teams can work together. The Resolution was drafted at the request of the Advisory Committee, when the Advisory Committee consulted Mr. Bucklin and Keesee and asked them to draft it and on Christmas Day, because of the urgency, they left Window Rock for Los Angeles where they conferred with Mr. Humphries on the Resolution, to take to Washington. Mr. Littell then changed the Resolution and the Resolution now before you is well worked over and everything has been revealed and proper procedures are laid down and I hope it will be adopted as it is quite clear that things are going to happen regarding this Shiprock Project and we should be able to deal with each subject as it comes up.

THE CHAIRMAN:

I would like to ask Mr. Keesee if he has any comment to make on this. Can you explain just how much water is meant by acre feet?

MR. KEESEE:

If you would take this room and increase it four times and put that much water (illustrating with his hands) on it, that would be an acre foot of water.

THE CHAIRMAN:

This mention of 610,000 acre feet of water, can you think of this much water in this room and then of 610,000 acres covered with this size of water, is that the idea of the amount of water we are talking about?

MR. KEESEE:

It is equal to approximately one thousand square miles with water that deep (illustrating with his hands).

THE CHAIRMAN: We will have recess now.

(Whereupon at 3:10 a recess of 10 minutes was taken)

THE CHAIRMAN:

We will continue with the business. Could you, Mr. Keese, tell us something about this project and the participating provisions that are contained in the introduction of this Bill? Would the money be appropriated for all those projects, the Shiprock Project and the San Juan diversion, or would each have a separate appropriation?

MR. KEESEE:

Each project, whether storage or irrigation, will have its own separate appropriation. There are four reservoirs and power plants included in the upper Colorado power project and includes the Navajo Reservoir. There are eleven separate projects included in the Act. None of these projects have been authorized at the present time and they are included in this Bill which will authorize the Navajo Reservoir and the Shiprock Project.

THE CHAIRMAN:

This Colorado River, does that mean the San Juan River before it gets to the Colorado River, or is the Colorado River mentioned the San Juan River?

MR. KEESEE:

When we say the Colorado River, we mean the Colorado River and all its tributaries, of which the San Juan River is one of them.

THE CHAIRMAN:

I think Mr. Keese has answered the questions that have been asked by many of us. That is the way we can find out is by asking questions, like I think the Counsel asks questions.

WILLIS MARTIN:

After the enactment of this legislation, how soon after will the projects be authorized? When will the work actually start?

MR. KEESEE:

The enactment of the Bill authorizes the Project. After authorization then we can ask for an appropriation. It would be possible if this Bill is authorized this year, to ask for an appropriation with which to continue engineering studies and make final plans which would require two years. The construction work probably cannot be started under two years after we received our first appropriation. It will take approximately three years after that before we can deliver water to any part of the land.

ADOLPH MALONEY:

We have discussed this project in a meeting with Mr. Keesee, and Billy Bicenti and I were there and everything that was said at this meeting, at this conference, was taken down, recorded, and I have the material here and at this time, Mr. Keesee informed us that unless we had all the discussions to support our claim available in Washington, Congress may be more liable to favor those who are opposing us; those who are making claims to this water and that was one of the things he mentioned to us very strongly, that we should do something - that the Council enact a Resolution and all supporting material made available in Washington as soon as possible and if those people who are along the Rio Grande, who are trying to get some of this water had their discussions and decisions in Washington before we do, they may prevail upon Congress to act in their favor because we did not furnish any material for their consideration. The Minutes that I have reference to covers the hearings in Engineering pertaining to the San Juan diversion, construction of roads, construction of day school. Our subject matter here is very wide. The scope of the subjects was very wide and the Chairman has suggested that this material become a part of the Minutes of this Council so that this material may be available for any discussion that takes place here. The head of the Engineering Department is here and he has guided and cleared up a lot of this material for us. Here is one letter dated December 14th, 1951, sent to the U. S. Indian Bureau, Navajo Service, Window Rock, Arizona, asking for information: