

John Whipple

From: Karin Stangl
Sent: Thursday, January 08, 2004 4:23 PM
To: Perry Abernethy; John Dantonio; dsanders; Robert Genualdi; Estevan Lopez; Phil Mutz; waterjim; John Whipple
Subject: FW: Navajo water meeting story- Farmington Daily Times

FYI--Here is an article that came out Wednesday in the Farmington Daily Times about Monday's public meeting in Shiprock.
Karin Stangl

NAVAJOS CRITICAL OF WATER PROPOSAL CONDEMN TIMETABLE FOR PUBLIC COMMENTS

By Jim Snyder, The Daily Times

SHIPROCK -- Navajo citizens questioned the merits of a proposed Navajo water rights settlement on the San Juan Basin during a public comments meeting with tribal and state officials Monday evening in the Shiprock Chapter House.

Navajos agreed with their San Juan County neighbors on two issues: closing the public comment period Jan. 15 was too soon and pushing the settlement to Congress in March was too fast.

Navajo concerns echoed county residents' remarks made during a Dec. 15 public comment meeting at the Farmington Civic Center < that they were upset about being left out of discussions between the New Mexico State Engineer and the Navajo government in drafting the proposal.

"It is extremely troublesome that we are made party to the discussions at the last moment," audience member and Shiprock Chapter President Duane "Chili" Yazzie said to the Navajo Nation and New Mexico state water officials during Monday's meeting. "It is near unconscionable to expect us to give substantive comment on such a monumental settlement with the imposed time constraints," he added.

One Navajo grassroots organization may file a lawsuit to get a time extension.

"We demand an extension. We're not asking," said audience member Norman Patrick Brown, a Diné Bitzill Navajo Strength grassroots leader. "We're looking at a lawsuit. ... You have not heard the last of our communities." Brown added, "Navajo rights were violated," because Navajo citizens were not included in the discussions leading to the proposal. "What's one month compared to eight years? It's an injustice. ... The Navajo Council accepted the (Navajo Water Commission) report Dec. 23 before the public comment period ended.

"They violated Navajo Common Law that the people would be informed of

various decisions that would affect their livelihood, their way of life and the land and water," Brown said. "At no time have the Navajo people been educated on the ramifications (of the proposal). ... We see this as an unfair settlement because we were not involved. We are being forced to accept this."

Audience member Albert Bennett added, "I would really encourage an extension. ... History is being repeated here. Manhattan is being sold for beads."

Questions mount on legislated projects (Subhead please)

Yazzie questioned why the Navajo-Gallup pipeline, already legislated by Congress as part of the Animas-La Plata Project; and the completion of the Navajo Indian Irrigation Project, also already legislated by Congress, was now being offered as a new incentive for the Navajo Nation to sign the agreement.

"We should not agree to the inclusion of the funds needed to complete NIIP and the construction of the Farmington-Shiprock pipeline in the settlement,"² Yazzie said. "Authorizations of those projects were done through separate federal legislations. ... Therefore it is a misrepresentation to laud this settlement as the largest water settlement in history."

Navajo water rights attorney Stanley Pollack later told the audience, "The total cost of the projects is \$795,900,000. This is the largest Indian water rights settlement in history."

Pollack added, "The current legislation for NIIP doesn't say when it will be completed. There is no timetable for finishing NIIP. There is also an \$80-\$100 million spending cap. ... We have negotiated an opportunity not to have to wait for quantification of water rights. We've negotiated to finish NIIP."

The proposed settlement would free up 508,000 acre feet of NIIP water for municipal and industrial use.

NIIP has rights to 55 percent of the water in the San Juan Basin. That water is currently mandated by Congress for irrigation use only at the Navajo Agricultural Products Industry.

Once the proposal becomes law the Navajo Nation would have the option to sell water to the city of Farmington and other non-Navajo water users as well as develop its own infrastructure.

Pollack said moving water from farms to municipal and industrial use was a nationwide trend.

Yazzie had reservations about the proposal saying the real motive behind the agreement was to supply Navajo water to Albuquerque and Gallup.

"I cannot help but think that the proposed settlement may only be a vehicle < a means to accomplish an agenda that is of more urgent priority < which is to assure delivery of more water to the Rio Grande and to deliver water to Gallup," he said.

Bennett added, "The state of New Mexico is in trouble and they want us to bail them out. Water is not accounted for between diversion and depletion."

Navajo VP supports settlement (Subhead please)

Navajo officials promoting the settlement during the four-hour meeting included Vice President Frank Dayish Jr. and Attorney General Louis Denetsosie. Water Rights Commission President < former Navajo President Albert Hale, and other commission members were also present.

"I am completely behind this," Dayish said. "We need to act so we can move forward. ... Water, it's our livelihood. There's a lot of infrastructure tied to this agreement. If it goes to court they're going to give our water rights on paper and we can't have infrastructure. ... The time line may have a very short fuse but I'm going to leave it up to you the Navajo people."

Hale told the audience, "I got a call from the mayor of Gallup, Bob Roseborough. He's in Washington D.C. ... He wanted to know if there was anything he could convey to the senators and congressmen. I told him we're on a fast track."

New Mexico State Engineer John D'Antonio and other state officials flew into Shiprock to answer questions from audience members.

"It's a fair settlement," D'Antonio said, adding, "Because you control your water rights you really control your economic development. It's a fantastic opportunity. The window is small because of congressional representation."

D'Antonio added, "The rush is to get the bill authorized through Congress. We're in a very unique position. Sen. (Pete) Domenici and Sen. (Jeff) Bingaman are behind this."

Shiprock Council Delegate Pete Ken Atcitty, Upper Fruitland Council Delegate LoRenzo Bates and Yazzie were among the Navajo officials attending as audience members.

Farmers get water behind dam (Subhead please)

Bates said he wanted Navajo farmers to have water rights behind Navajo Reservoir < something not included in the proposed settlement. Following the meeting Bates said Pollack told him farmers would have water behind the dam.

"Because NIIP water < once the settlement becomes law < becomes Navajo Nation water," Bates said. "NAPI can no longer say it's their water, it's Navajo Nation water. Which is good in a drought. Farmers can be sure they

have water behind the dam (even though) it is not contracted water.²
Bates added he was concerned Pollack wouldn't say what their outcome
would
be if they went to court to obtain water rights instead of signing the
settlement.

"He (Pollack) has not been able to disclose to the general public < if
we go
to court < the outcome."

Federal government costs in the settlement agreement and their
completion
dates are:

- € The Navajo-Gallup Water Supply Project at \$463.4 million, Dec. 2016.
- € The Navajo Indian Irrigation Project at \$277.4 million, Dec. 2015.
- € The Fruitland-Cambridge Irrigation Project at \$5.7 million, Dec. 2010.
- € The Hogback-Cudei Irrigation Project at \$12 million, Dec. 2015.
- € The Navajo Nation municipal pipeline at \$5 million, Dec. 2009.
- € Conjunctive use ground water wells at \$77.6 million, Dec. 2016.
- € Joint Hydrographic Survey at \$5 million, Sept. 2008
- € Navajo Nation Water Development Trust Fund \$50 million, Dec. 2016.

(New
Mexico will pay \$25 million.)

"This is going to be funding coming from the federal government for the
projects," Dayish said. "We're not going to be paying out."
The Navajo Council may hold a work session in mid-January to discuss the
proposed water settlement. "They (the Council) are looking to take
action in
mid-February," Pollack said.

"The whole Navajo Nation Council will have to decide ultimately,"
Denetsosie
said. "They're the ones who have to make the decision."

Public comments due by Jan. 15 (Subhead please)

Public comments should be sent to: John Whipple, New Mexico Interstate
Stream Commission, P.O. Box 25102, Santa Fe, NM, 87504-5102, or e-mailed
to
jwhipple@ose.state.nm.us

Comments can also be sent to: John Leeper, Navajo Nation Department of
Water
Resources, P.O. Drawer 678, Fort Defiance, AZ, 86504. Leeper's e-mail is
johnleeper@navajo.org

D¹Antonio said copies of the complete 126-page water rights settlement
are
available at the Farmington, Aztec and Bloomfield public libraries, the
state engineer's Web site < www.ose.state.nm.us < as well as at the
Aztec
District Court clerk's office.

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