



THE NAVAJO NATION  
WINDOW ROCK, NAVAJO NATION (ARIZONA) 86515

October 4, 1978

PETER MACDONALD  
CHAIRMAN, NAVAJO TRIBAL COUNCIL

WILSON C. SKEET  
VICE CHAIRMAN, NAVAJO TRIBAL COUNCIL

M E M O R A N D U M

TO : Chairman & Members  
Arizona Groundwater Management Study Commission

FROM : Clarence Via, Acting Executive Director  
Navajo Water Commission

SUBJECT: Navajo Tribe Water Rights.

The following data information is presented for your records and review.

1. Navajo Tribal Council Resolution CAU-52-76.  
(Read into the record with a copy for staff.)
2. Navajo Tribal Chairman Peter MacDonald has established and the Navajo Tribal Council has approved the Navajo Water Commission. The Navajo Water Commission purposes is to preserve and protect the Water Rights of the Navajo Nation for the economic benefit of the Navajo people.

This effort includes but is not limited to the following:

1. Treaty terms with promises of water.
2. Winter Doctrine rights in streams and/or drainages.
3. We claim all waters above, on or below the surfaces of the Navajo Nation.
4. We have a current inventory of our practicably irrigable acres.
5. We are developing a Water Rights Code to extend and Administer Navajo Water Rights to Navajo Water users.
6. We do not recognize any state jurisdiction over Navajo Nation Water Rights and are currently actively involved in litigation to defend our position.

*John F. VI*  
*Rudolf*  
*Clarence*  
*10/17/78*  
*10/14*  
*Dave - [unclear]*  
*R. [unclear]*  
*[unclear]*

*SJ-17*

*data*

7. We are in general agreement with other Indians in the pursuit of their proper water rights.
8. We urge the matter of Indian Water Rights be addressed and resolved at the earliest practicable date so that Indians and non-Indians may proceed with planning accordingly.
9. We do not agree with the premise of "use it or lose it" regarding our water rights.
10. All commitments and agreements binding on the Navajo Tribe must be approved by the Navajo Tribal Council. *or enacted by Congress!*
3. We suggest Study Commission Staff secure copies of Report on Proceedings of The 5th Annual Indian Town Hall. (Copy of Cover attached.) The representatives of many Indian Tribes made statements pertinent to your Study objectives.
4. I would personally call your attention to a paper "The Federal Reservation Doctrine--A New Approach is Required" by A. J. Pfister, copy of cover is attached. It may aid in developing a perspective of Indian Water Rights matters.

  
Clarence Via

NOTE: The above statement was approved at a Navajo Water Commission Meeting October 2, 1978. The Statement is scheduled to be presented October 19, 1978 at the Capitol Tower Building. 800 Conference Room.

cc: Chairman, Navajo Tribal Council  
Chairman & Members, Navajo Water Commission  
Vlassis, Ruzow and Crowder

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Class "C" Resolution  
No. BIA Action Required.

RESOLUTION OF THE  
NAVAJO TRIBAL COUNCIL

Setting 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; and

4. The Advisory Committee of the Navajo Tribal Council by Resolution ACJN-126-76, has unanimously recommended that the Navajo Tribal Council set forth the Navajo position on Navajo water rights.

NOW THEREFORE BE IT RESOLVED THAT:

1. The following is 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, both we and the United States 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.

*reiteration of  
2. the compact*

*see the Act!  
But there can't have  
any law for N.I. if  
"Winters" was it!*

2. The Navajo Tribal Council further declares that all prior actions 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 is declared to be unauthorized and null and void.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by 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 38 in favor and 0 opposed, this 26th day of August, 1976.

*Wilson G. Keet*

Vice Chairman  
Navajo Tribal Council