

DEPARTMENT OF THE INTERIOR,  
WASHINGTON.

February 12, 1913.

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MEMORANDUM. 30186 MAR 7 11  
INDIAN OFFICE

An item in the Indian Appropriation Act of August 24, 1912 (37 Stat. 518, 522), reads:

For beginning the construction of the Ganada irrigation project on the Navajo Indian Reservation in Arizona, in accordance with the plans submitted by the chief engineer of the Indian Service and approved by the Commissioner of Indian Affairs and the Secretary of the Interior, in conformity with section one of the Act approved April fourth, nineteen hundred and ten, thirty-five thousand dollars: Provided, That the total cost of the project shall not exceed sixty thousand one hundred dollars.

The agreement now submitted is for the purpose of acquiring from J. L. Hubbell certain ditches to be used in this project and also whatever water right Mr. Hubbell may have. There is no proof showing the

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value of his water right, or in fact establishing that he has any such right. The allegation in the instrument proposed to be signed is that Mr. Hubbell is the owner of certain lands (describing them) and has heretofore built a canal or water ditch (describing it) for the purpose of irrigating said land, "and has irrigated said land for several seasons and has acquired for said irrigation water rights under the laws of Arizona." Neither the quantity of water claimed by him nor the length of beneficial use thereof is shown. It is understood generally that Mr. Hubbell has occupied this land for a long time, possibly thirty years or more.

I asked the Irrigation Section in the Indian Office respecting this matter, and found there was no definite knowledge there as to the quantity of water Mr. Hubbell had used or the length of time. I also asked Mr. Meritt, the Law Clerk of the Indian Office, who initialed the paper, as to the basis for an acknowledgment in this instrument that

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Mr. Hubbell has a water right equivalent in value to the rights proposed to be assured him in this contract. Mr. Meritt asserts he knows personally that Mr. Hubbell has a right there, and that others in the Indian Office have visited the vicinity.

While I am of opinion that the agreement would be beneficial to the Indians, I find in the papers no proof upon which to base a conclusion that the property and rights proposed to be conveyed by Mr. Hubbell equal in value the rights proposed to be guaranteed by the Government to Mr. Hubbell. In other words, there is no affirmative showing that the exchange is of things of equal value.

*M.P.*