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Geraint Humpherys, Esq.,

Chief Field Counsel.

FEB 20 1936

Dear Mr. Humpherys:

There is enclosed herewith a copy of a recent letter from the Superintendent of the Navajo Agency concerning the proposed applications to the State Water Commission of Arizona covering the appropriation and use of water of the Navajo Reservation for irrigation and stock water purposes.

It will be observed also that a number of stock water reservoirs of considerable size were constructed under the Navajo Emergency Conservation program. It is desired that you give this matter study and consideration with a view to submitting a report thereon together with recommendations. It is appreciated that the notice for the filing of applications with the State water authority is an excellent sign of a spirit of cooperation between the Federal Government and the local water authority. In this case, however, in view of the position taken by the Arizona Commission and the further fact that in so far as the Federal Government is concerned the local authority has no jurisdiction, it would not appear essential that application for the appropriation and use of water be filed in so far as the irrigation and stock water development on lands of the original Navajo Reservation is concerned. There might be some reason to consider filing notice of appropriation covering developments located on lands recently added to the reservation.

The Superintendent advises that in the event filings are made it will be necessary to secure an additional appropriation for Navajo and Hopi irrigation projects. The current year funds appear to be inadequate to bear this additional expense, and, as you are aware, the estimates for the 1937 fiscal year are now before Congress and cannot at this time be changed. In so far as irrigation projects constructed with Public Works money are concerned which are located on recently acquired lands, it would appear that any available balance in the funds allocated for the project or projects by the Public Works Administration would be available for the purpose of defraying the expense of the filing of notice of appropriation in the event it is finally decided that such filings would be advantageous.

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In your report it is also desired that you discuss what effect action taken by the United States before the Water Commission might have in constituting a recognition of the power and jurisdiction of that body so that the Government in the future may be estopped from questioning the Commission's authority and jurisdiction over such water rights.

Sincerely yours,

John Herrick

ASSISTANT TO THE Commissioner.

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Enclosure 254352.

cc to Supt., Navajo Agency.

I-3445-36.

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Irrigation

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD SERVICE

Navajo Agency
Fort Defiance, Arizona
February 6, 1936

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Mr. A. L. Wathen
Director of Irrigation

Dear Mr. Wathen:

We have contacted the State Water Commission of Arizona relative to making application to appropriate water on the Navajo Reservation for irrigation and stock water purposes. We had hoped to obtain from them the same courtesy as we received from the State of New Mexico which permitted the filing of application and maps without cost to the Government, however, the State of Arizona is unwilling to comply with our request and it will be necessary to comply with the Arizona state laws in making application for appropriation of water for irrigation purposes on the Navajo Reservation. We deem it highly desirable to comply with the state laws in order to protect the water rights for the Indians.

In order to do this it will be necessary for us to have an additional appropriation of money for Navajo and Hopi irrigation to comply with state laws. The Emergency Conservation Works has also constructed a number of stock water reservoirs of considerable size on which we should also make filing.

For this information we will quote from Section 3316 from the "Water Code of the State of Arizona".

"FEES. The following fees shall be collected in advance by the Commissioner: For examining an application for permit to appropriate water, three dollars; for filing and recording permit to appropriate water for irrigation purposes, twelve cents per acre for each acre to be irrigated up to and including one hundred acres, and ten cents per acre for each acre in excess of one hundred acres; if the application is for power purposes, twenty-five cents for each theoretical horsepower to be developed up to and including one hundred, ten cents for each horsepower in excess of one hundred and up to and including one thousand, and five cents for each horsepower in excess of one thousand; if the application is for any other purpose, five

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dollars for filing and recording each permit; for filing or recording any other water right instrument, one dollar for the first hundred words and ten cents for each additional hundred words or fraction thereof; for making copy of any document recorded or filed in his office, ten cents for each hundred words or fraction thereof; but where the amount exceeds five dollars, then only the actual cost in excess of that amount; for certifying copies, documents, records, or maps, one dollar for each certificate; for blue print copy of any map or drawing, ten cents per square foot or fraction thereof; for such other work as may be required of his office, actual cost of the work. At the time of the submission of proof of appropriation, or the taking of testimony for the determination of rights to water, he shall collect from each claimant two dollars for recording the water right certificate in the office of the county recorder, together with an additional fee of twelve cents for each acre of irrigated lands up to and including one hundred acres, and ten cents per acre for each acre in excess of one hundred acres; also twenty five cents for each theoretical horsepower up to and including one hundred horsepower, and fifteen cents for each horsepower in excess of one hundred up to and including one thousand horsepower, and five cents for each horsepowerin excess of one thousand horsepower up to and including two thousand horsepower, and two cents for each horsepower in excess of two thousand horsepower as set forth in such proof, the minimum fee, however, for any claimant in such cases to be two dollars and fifty cents; also a fee of five dollars for any other character of claim to water. The two dollars recording fee shall be transmitted by the commissioner to the county recorder with the certificate when issued."

Very truly yours,

C E Faris

C. E. Faris,
Superintendent