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August 3, 1957

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GENERAL FILES

Dear Mrs. Spann:

We can assure you the answer is "Yes" to your July 17th inquiry to the President asking whether the proposed Kinzua Dam has been made the subject of a thorough study. <sup>X</sup> It has been under way some time and the Corps of Engineers reports it will continue with no unnecessary delay. We are sure you understand why the complicated engineering problems require time for sufficient consideration.

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At the President's direction, the Secretary of the Interior, Mr. Seaton, met with Cornelius V. Seneca, President of the Seneca Indians, to discuss the dam's effect upon the Senecas' Allegheny Reservation in New York. Chief Seneca submitted copies of an alternative plan which he said would eliminate the need for the Kinzua Dam. His alternative calls for diverting the Allegheny River headwaters to Lake Erie, instead of damming the river at Kinzua and flooding the Seneca lands. Secretary Seaton forwarded Chief Seneca's plan to the Corps of Engineers.

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X

The Senecas of the Allegheny Reservation are not a Federal responsibility as are the Indians of many reservations. The Bureau of Indian Affairs, in the Department of the Interior, does not exercise trusteeship over that reservation. But Secretary Seaton who is generally responsible for Indian affairs, is of course interested in the Senecas' welfare. Moreover, this is not an everyday case. As you pointed out, the 1794 treaty acknowledging the land to be the property of the Senecas is one of the Nation's most venerable documents. Its very age lifts it above the ordinary pact. Age alone, however, is not the only consideration here. The Federal Government has a responsibility to protect against flood disasters. The Kinzua Dam project was planned to defend citizens in distress from floods. The Corps of Engineers advises the dam also

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was intended to be a key structure in regulating the flow of the Allegheny River, and subsequently the flow of the Ohio River, and would have important effects upon navigation, pollution control and other factors.

After reading of your disappointing experience with land condemnation, it is easy to understand your concern over the use of the right of eminent domain in the Senecas' case. It may be reassuring for you to know that if the time comes when a Kinzua Dam must be built, the Senecas are assured of due compensation. Our courts have ruled that due compensation is required when the Federal Government is called on to appropriate land for public use. The courts have also upheld the Government's right to appropriate such lands even where Indian treaties are involved. In the specific cases of this Seneca reservation, that right was reaffirmed last January by the Federal Court for the Western District of New York. Congress, in enacting legislation authorizing the dam, further upheld the legality of using Seneca land. And Chief Seneca himself has been quoted in the press as saying he would not oppose construction of the dam, providing its need for flood control was shown convincingly.

Your invitation to President and Mrs. Eisenhower to visit the Jumonville Methodist Training Center is sincerely appreciated. <sup>x</sup> As you know, the demands upon the President's time are quite heavy and do not permit him much opportunity for such trips. However, he is grateful for the invitation and for your kind personal wishes.

Sincerely,

Bernard M. Shanley  
Secretary to the President

<sup>x</sup>  
Mrs. Martin F. Spann  
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