

92<sup>nd</sup> CONGRESS  
1<sup>st</sup> SESSION

# H. R. 11128

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1971

Mr. STEIGER of Arizona introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

### A BILL

To authorize the partition of the surface rights in the joint use area of the 1882 Executive Order Hopi Reservation and the surface and subsurface rights in the 1934 Navajo Reservation between the Hopi and Navajo Tribes, to provide for allotments to certain Paiute Indians, and for other purposes.

1 *Be it enacted by the Senate and House of Representa*  
2 *tives of the United States of America in Congress assembled*  
3 That all of the surface rights in and to that portion of the  
4 Hopi Indian Reservation created by the Executive Order of  
5 December 16, 1882 in which the United States district court

1 found the Hopi and Navajo Indian Tribes to have joint, un-  
2 divided, and equal interests in the case entitled Healing  
3 against Jones (210 Fed. Supp. 125 (1962), affirmed 373  
4 U.S. 758) shall be partitioned in kind as provided in this  
5 Act.

6 SEC. 2. Hereafter the United States shall hold in trust  
7 exclusively for the Hopi Indian Tribe and as a part of the  
8 Hopi Indian Reservation, the surface interests in and to the  
9 following described lands:

10 Commencing at the northeast corner of the Execu-  
11 tive Order Reservation of December 16, 1882, 110  
12 degrees 00 minutes west longitude by 36 degrees 30  
13 minutes north latitude;

14 thence due south, 40.6 miles to mile 209 on the  
15 east boundary of the Executive Order Reservation of  
16 1882, as surveyed by United States Bureau of Land  
17 Management in 1963 and 1964, to the true point of  
18 beginning;

19 thence due south, 9.9 miles, following the east  
20 boundary of the Executive Order Reservation of 1882  
21 to the centerline of State Route 264;

22 thence southwesterly, 33,900 feet, following the  
23 centerline of State Route 264, to the center of its junc-  
24 tion with State Route 77;

1           thence southerly, 7.73 miles, following the center-  
2 line of State Route 77;

3           thence west, 31 degrees 30 minutes south, 29,300  
4 feet, to the southwest corner of section 6, township 25  
5 north, range 21 east;

6           thence west, 11.5 miles, following the section lines  
7 to the northwest quarter corner of section 7, township  
8 25 north, range 19 east;

9           thence southwesterly 16,500 feet, to the inter-  
10 section of the section line between sections 14 and 23,  
11 township 25 north, range 18 east, and the Old Polacca-  
12 Winslow Road;

13          thence southerly  $\frac{1}{4}$  miles, following the centerline of  
14 the Old Polacca-Winslow Road, to the south boundary  
15 of the Executive Order Reservation of 1882;

16          thence due west, 26 miles, following the south  
17 boundary of the Executive Order Reservation of 1882,  
18 to a point due south of Monument Point, also known as  
19 Finger Point and Katchina Point;

20          thence due north, 18,250 feet, to Monument Point;

21          thence northwesterly, following the rim of Garces  
22 Mesa, to the western extremity thereof, located in the  
23 southwest quarter of section 1, township 25 north,  
24 range 13 east;

25          thence northwesterly, 2.4 miles, following a fence

1 line, to the end of the fence line and the southern ex-  
2 tremity of Garces Mesa, located in the southeast quarter  
3 of section 27, township 26 north, range 13 east;

4           thence northerly, following the rim of Garces Mesa  
5 to a point where said rim intersects the line common to  
6 the northeast quarter and the northwest quarter of sec-  
7 tion 22, township 26 north, range 13 east;

8           thence north, 1,500 feet, to the north quarter corner  
9 of section 22, township 26 north, range 13 east;

10          thence north northeasterly, 6,000 feet, to the north-  
11 east corner of section 15, township 26 north, range 13  
12 east;

13          thence north, 3,500 feet, along the section line;

14          thence west 16 degrees 30 minutes north, 4,800 feet,  
15 to the end of a fence adjoining Dinnebito Wash;

16          thence west 16 degrees 30 minutes north, 4,000 feet,  
17 following the fence, to the top of a rim;

18          thence north 53 degrees west, 5,900 feet, following  
19 a fence, to the top of Moencopi Plateau;

20          thence northwesterly, 9,300 feet, following the rim  
21 of the plateau to its junction with the west boundary  
22 of the Executive Order Reservation of 1882, 4,650 feet  
23 south of mile 110;

24          thence due north, 41 miles to the centerline of  
25 United States Route 164;

1           thence northeasterly, 5 miles, following the center-  
 2 line of Route 164 to the junction of a road to the east;  
 3           thence south 30 degrees east  $4\frac{1}{2}$  miles, to the top  
 4 of the rim;  
 5           thence southerly, 1.1 miles, following the rim;  
 6           thence east 11 degrees south, 2.6 miles, to a point  
 7 where the Black Mesa Slurry Pipeline intersects the  
 8 36 degree 15 minute parallel;  
 9           thence northeasterly, 8.2 miles, following the north  
 10 boundary of the pipeline right-of-way;  
 11           thence north 59 degrees east, 3.2 miles, to the junc-  
 12 tion of two major drainages from the north;  
 13           thence north 44 degrees east, 2.7 miles, to the east-  
 14 erly bend in a pickup road;  
 15           thence northeasterly, 3.6 miles, following the said  
 16 road, to a point where the road bears abruptly to the  
 17 southeast;  
 18           thence northeasterly,  $4\frac{1}{4}$  miles, following the divide;  
 19           thence due east, 3 miles, to 110 degrees 30 min-  
 20 utes west longitude;  
 21           thence east 27 degrees 30 minutes south, 2.9 miles,  
 22 to a point where the east boundary of the right-of-way  
 23 for the proposed State Second Mesa-Kayenta Road  
 24 crosses the Moencopi Wash;  
 25           thence southerly,  $20\frac{1}{3}$  miles, following the east

1           boundary of the proposed road right-of-way to a point  
 2 south of Big Mountain Dam where a line from Gum  
 3 Point bearing north 54 degrees 02 minutes west will  
 4 intersect the east boundary of the right-of-way;  
 5           thence south 54 degrees 02 minutes east, 21.8 miles  
 6 to Gum Point;  
 7           thence southeasterly,  $8\frac{1}{2}$  miles, following the north-  
 8 ern rim of the mesa to mile 209 on the east bound-  
 9 ary of the Executive Order Reservation of 1882, to the  
 10 point of beginning; excepting the Hopi Reservation as  
 11 established by the decree of the United States District  
 12 Court on September 28, 1962, in said case of Healing  
 13 against Jones; containing nine hundred and four thous-  
 14 and two hundred and sixty-five acres, more or less.  
 15           SEC. 3. Hereafter, the United States shall hold in trust  
 16 exclusively for the Navajo Indian Tribe and as a part of the  
 17 Navajo Indian Reservation the surface interests in and to  
 18 the following described lands:  
 19           All of the lands within the Hopi Executive Order Res-  
 20 ervation of December 16, 1882, except the lands described  
 21 in section 2 of this Act and the exclusive Hopi Reservation  
 22 as established by the decree of the United States District  
 23 Court on September 28, 1962, in said case of Healing against  
 24 Jones; containing nine hundred seventeen thousand eight  
 25 hundred and fifteen acres, more or less.

1 SEC. 4. Partition of the surface of the lands described  
2 in sections 2 and 3 hereof shall not affect the existing status  
3 of the coal, oil, gas and all other minerals within or under-  
4 lying said lands.

5 All coal, gas, oil and minerals of every kind, shall be  
6 managed jointly by the Hopi and Navajo Tribes, subject to  
7 such supervision and approval by the Secretary of the In-  
8 terior or as otherwise required by law, and the proceeds  
9 therefrom shall be divided between the said tribes, share and  
10 share alike.

11 SEC. 5. Hereafter the United States shall hold in trust  
12 exclusively for the Hopi Indian Tribe and as a part of the  
13 Hopi Indian Reservation all right, title, and interest in and to  
14 the following described land which is a portion of the land  
15 described in the Act of June 14, 1934 (48 Stat. 960), on  
16 which the Hopi Tribe was located on the date of said Act  
17 and outside of the Hopi Executive Order Reservation:

18 Beginning at a point along the rim of Moencopi  
19 Plateau where the plateau meets the Navajo purchased  
20 land at approximately 5,000 feet elevation, said point  
21 being on the north boundary of section 9, township 29  
22 north, range 11 east (projected);

23 thence northerly and northwesterly along the rim  
24 of Moencopi Plateau to a point on the projected section

1 line between section 11 and section 12, township 31  
2 north, range 10 east;

3 thence north along said section line to the center of  
4 Moencopi Wash;

5 thence up the center of Moencopi Wash to a point  
6 where it meets the west boundary of allotment No. 54;

7 thence south and east to the southeast corner of  
8 allotment 52;

9 thence north to the southwest corner of allotment  
10 numbered 50;

11 thence east and north around allotment numbered  
12 50 to the northeast corner thereof;

13 thence west to the centerline of the highway;

14 thence northerly and easterly along the centerline  
15 of the highway to a point on the centerline of section  
16 28, township 32 north, range 11 east;

17 thence north along the centerline of sections 28,  
18 21, 16, 9 and 4, township 32 north, range 11 east, to  
19 the north quarter corner of said section 4;

20 thence east along the north lines of sections 4, 3,  
21 2 and 1, township 32 north, range 11 east, to the north-  
22 east corner of said section 1, said corner being on the  
23 range line between ranges 11 and 12 east;

24 thence south along said range line to the center of  
25 Moencopi Wash;

1 thence up the center of Moencopi Wash to the west  
2 boundary of the Hopi Executive Order Reservation of  
3 December 16, 1882;

4 thence south along said west boundary to a point  
5 where a northeasterly extension of the Buck Pasture  
6 Fence would intersect said boundary;

7 thence southwesterly to Windmill numbered A-  
8 149;

9 thence westerly along the section line on the south  
10 boundary of section 6, township 29 north, range 12  
11 east, and continuing along the section lines on the south  
12 boundary of sections 1, 2, 3, and 4, township 29 north,  
13 range 11 east, to the point of beginning.

14 SEC. 6. The Secretary of the Interior, hereinafter called  
15 the "Secretary," is hereby authorized to allot in severalty to  
16 individual Paiute Indians, not now members of the Navajo  
17 Indian Tribe, who are located within the area described in  
18 the said Act of June 14, 1934, and who were located within  
19 said area or are direct descendants of Paiute Indians who  
20 were located within said area on the date of said Act, land  
21 in quantities as specified in the Act of February 8, 1887  
22 (24 Stat. 388), as amended, and patents shall be issued to  
23 them for such lands in the manner and with the restrictions  
24 as provided in sections 331, 348, and 349 of title 25, United  
25 States Code.

1 SEC. 7. Hereafter the United States shall hold in trust  
2 exclusively for the Navajo Indian Tribe and as a part of the  
3 Navajo Indian Reservation the lands described in the said  
4 Act of June 14, 1934, except the lands described in sections  
5 2 and 5 hereof and the lands in the exclusive Hopi Indian  
6 Reservation commonly known as Land Management Dis-  
7 trict 6, and further excepting those lands allotted pursuant  
8 to section 6 hereof.

9 SEC. 8. The Secretary is authorized and directed to  
10 remove all Navajo Indians and their personal property,  
11 including livestock, from the lands described in sections 2  
12 and 5 of this Act. Such removal shall take place over a  
13 period of ten years with approximately 10 per centum of the  
14 Navajo occupants to be removed each year. No movement of  
15 Navajo Indians onto any of the lands described in sections  
16 2 and 5 of this Act or Land Management District 6 shall be  
17 lawful unless advance written approval of the Hopi Tribe is  
18 obtained. No Navajo Indian shall hereafter be allowed to  
19 increase the number of livestock he grazes on the areas  
20 described in sections 2 and 5 of this Act, nor shall he retain  
21 any grazing rights subsequent to his removal therefrom.

22 SEC. 9. The Secretary is authorized and directed to  
23 remove all Hopi Indians and their personal property, includ-  
24 ing livestock, from the lands described in sections 3 and 7 of  
25 this Act. Such removal shall take place over a period of

1 two years with approximately 50 per centum of the Hopi  
 2 occupants to be removed each year. No movement of Hopi  
 3 Indians onto any of the lands described in sections 3 and 7  
 4 of this Act shall be lawful unless advance written approval of  
 5 the Navajo Tribe is obtained. No Hopi Indian shall hereafter  
 6 be allowed to increase the number of livestock he grazes on  
 7 the areas described in sections 3 and 7 of this Act, nor shall  
 8 he retain any grazing rights subsequent to his removal there-  
 9 from.

10 SEC. 10. (a) Navajo Indians moved pursuant to sec-  
 11 tion 8 of this Act shall be given priority for assignment of  
 12 lands included within the Navajo Indian irrigation project.  
 13 The Secretary in cooperation with the Navajo Tribal Coun-  
 14 cil shall determine the size of parcels within the project to  
 15 be assigned to such Indians as necessary to provide them  
 16 with an economic base.

17 (b) Notwithstanding the provisions of section 3 of the  
 18 Act of June 13, 1962 (76 Stat. 90), as amended by the  
 19 Act of September 25, 1970 (80 Stat. 867), the Navajo  
 20 Tribe shall not be required to pay the United States for any  
 21 federally owned lands included within the Navajo Indian  
 22 irrigation project which are assigned to Indians moved pur-  
 23 suant to this Act.

24 (c) The value of lands acquired by the Navajo Tribe  
 25 in fee and included in the project as provided in section 3 (b)

1 of said 1962 Act which are assigned to Indians moved pur-  
 2 suant to this Act shall be credited against any sums the  
 3 Navajo Tribe owes or may in the future owe to the United  
 4 States under section 3 of said 1962 Act.

5 (d) The Secretary is hereby authorized to declare that  
 6 any federally owned lands within the areas described in sec-  
 7 tion 3 (a) of said 1962 Act, as amended, not susceptible to  
 8 irrigation and not needed for project works or canals are  
 9 held in trust by the United States for the Navajo Tribe.

10 (e) The Secretary is also authorized to acquire by pur-  
 11 chase, exchange, or condemnation, any non-Government  
 12 lands within said areas which are not susceptible to irriga-  
 13 tion and which are not needed for project works or canals.  
 14 After acquisition, said lands shall be held in trust by the  
 15 United States for the Navajo Tribe.

16 (f) The lands transferred to or acquired for the Navajo  
 17 Tribe pursuant to (d) and (e) shall be available for assign-  
 18 ment to Navajo Indians moved pursuant to section 8 of this  
 19 Act who do not desire to locate on Navajo Indian irrigation  
 20 project lands or who cannot be accommodated on such lands.

21 SEC. 11. Hopi Indians moved pursuant to section 9 of  
 22 this Act shall be given priority to assignments of land within  
 23 the areas vacated by Navajo Indians. The Secretary in co-  
 24 operation with the Hopi Tribe Council shall determine the

1 size of parcels necessary to provide resettled Hopi Indians  
2 with an economic base.

3 SEC. 12. (a) All Hopi and Navajo Indians moved pur-  
4 suant to the provisions of this Act shall be considered "dis-  
5 placed persons" within the meaning of the Uniform Reloca-  
6 tion Assistance and Real Property Acquisition Policies Act  
7 of 1970 (84 Stat. 1894). For the purpose of determining  
8 payments due under that Act, such Indians shall be deemed  
9 to own the land on which their habitation is located.

10 (b) The United States shall purchase from each such  
11 Indian any habitation and other improvements owned by  
12 him on the area from which he is being moved. The pur-  
13 chase price shall be the fair market value of such improve-  
14 ments.

15 (c) In addition to the above payments, the Secretary  
16 shall pay to each Indian family moved pursuant to this Act  
17 the sum of \$3,000 for indeterminable expenses and personal  
18 hardship.

19 SEC. 13. The Navajo Tribe shall pay to the Hopi Tribe  
20 the fair rental value as determined by the Secretary for all  
21 Navajo Indian use of the lands described in sections 2 and  
22 5 of this Act subsequent to the date of this Act.

23 SEC. 14. The Hopi Tribe shall pay to the Navajo Tribe  
24 the fair rental value as determined by the Secretary for all

1 Hopi Indian use of the lands described in sections 3 and 7  
2 of this Act subsequent to the date of this Act.

3 SEC. 15. The Navajo Tribe and the Hopi Tribe may  
4 each commence or defend in the United States District Court  
5 for the District of Arizona an action or actions against each  
6 other for the following purposes:

7 (a) For an accounting of all sums collected by the  
8 Navajo Indian Tribe since September 28, 1962, as trader  
9 license fees or commissions, lease rentals or proceeds or other  
10 similar charges for the doing of business or the use of lands  
11 within the Executive Order Reservation of December 16,  
12 1882. The Hopi Indian Tribe shall be entitled to judgment  
13 for one-half of all sums so collected, together with interest  
14 at the rate of 6 per centum per annum.

15 (b) For the determination and recovery of the fair  
16 value of the grazing and agricultural use by the Navajo  
17 Tribe and its individual members since the 28th day of  
18 September 1962, of the undivided one-half interest of the  
19 Hopi Tribe in the Executive Order Reservation of Decem-  
20 ber 16, 1882, outside of Land Management District 6, to-  
21 gether with interest at the rate of 6 per centum per annum.

22 (c) For the adjudication of any claims that either the  
23 Hopi or Navajo Tribe may have against the other for dam-  
24 ages to the lands to which title was quieted by the United  
25 States District Court for the District of Arizona in said tribes,

1 share and share alike, subject to the trust title of the United  
 2 States, without interest. The claims shall be limited to oc-  
 3 currences since the establishment of grazing districts on said  
 4 lands in the year 1936, pursuant to section 6 of the Act of  
 5 June 18, 1934 (48 Stat. 984).

6 Neither laches nor the statute of limitations shall consti-  
 7 tute a defense to any action authorized by this Act for exist-  
 8 ing claims if commenced within two years from the effective  
 9 date of this Act.

10 SEC. 16. The Navajo or the Hopi Tribe may institute  
 11 such further original, ancillary, or supplementary actions  
 12 against the other tribe as may be necessary or desirable to  
 13 insure the quiet and peaceful enjoyment of the reservation  
 14 lands of said Hopi and Navajo Indians by said tribes and  
 15 the members thereof, and to fully accomplish all objects and  
 16 purposes of this Act. Such actions may be commenced in the  
 17 United States District Court for the District of Arizona by  
 18 either of said tribes against the other.

19 SEC. 17. The United States shall not be an indispensable  
 20 party to any action or actions commenced pursuant to this  
 21 Act. Any judgment or judgments by the court shall not be  
 22 regarded as a claim or claims against the United States.

23 SEC. 18. All applicable provisional and final remedies  
 24 and special proceedings provided for by the Federal Rules of  
 25 Civil Procedure and all other remedies and processes avail-

1 able for the enforcement and collection of judgments in the  
 2 district courts of the United States may be used in the enforce-  
 3 ment and collection of judgments obtained pursuant to the  
 4 provisions of this Act.

5 SEC. 19. The Secretary is hereby authorized and directed  
 6 to accomplish the following:

7 (a) Survey and monument the boundaries of the Hopi  
 8 Reservation as defined in sections 2 and 5 of this Act.

9 (b) Erect a boundary fence on said boundaries and con-  
 10 struct a service road paralleling said fence.

11 SEC. 20. There is hereby authorized to be appropriated  
 12 such sums as are necessary to carry out the provisions of this  
 13 Act.