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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

11 CLARENCE HAMILTON, CHAIRMAN OF THE)
12 HOPI TRIBAL COUNCIL OF THE HOPI INDIAN)
13 TRIBE, FOR AND ON BEHALF OF THE HOPI)
14 INDIAN TRIBE, INCLUDING ALL VILLAGES)
15 AND CLANS THEREOF, AND ON BEHALF OF)
16 ANY AND ALL HOPI INDIANS CLAIMING ANY)
17 INTEREST IN THE LANDS DESCRIBED IN THE)
18 EXECUTIVE ORDER DATED DECEMBER 16,)
19 1882,)

No. Civil 579

PRESCOTT

16 Plaintiff,

17 vs.

) PROPOSED FINDINGS OF
) FACT AND CONCLUSIONS
) OF LAW SUBMITTED ON
) BEHALF OF DEFENDANT
) MacDONALD

18 PETER MacDONALD, CHAIRMAN OF THE)
19 NAVAJO TRIBAL COUNCIL OF THE NAVAJO)
20 INDIAN TRIBE FOR AND ON BEHALF OF THE)
21 NAVAJO INDIAN TRIBE, INCLUDING ALL)
22 VILLAGES AND CLANS THEREOF, AND ON)
23 BEHALF OF ANY AND ALL NAVAJO INDIANS)
24 CLAIMING ANY INTEREST IN THE LANDS)
25 DESCRIBED IN THE EXECUTIVE ORDER DATED)
26 DECEMBER 16, 1882; RICHARD G. KLEIN-)
27 DIENST, ATTORNEY GENERAL OF THE UNITED)
28 STATES, ON BEHALF OF THE UNITED)
29 STATES,)
30 Defendants.)

26 Defendant Peter MacDonald, Chairman of the Navajo Tribal
27 Council of the Navajo Indian Tribe for and on behalf of the
28 Navajo Indian Tribe, including all villages and clans thereof
29 and on behalf of any and all Navajo Indians claiming any interest
30 in the lands described in the Executive Order dated December 16,
31 1882, by its undersigned attorneys, hereby respectfully submits
32 its proposed findings of fact and conclusions of law:

1 Findings of Fact

2 1. The estimate of sheep units grazing in the Executive
3 Order Area as of January 1, 1972 was 85,312.

4 2. This figure has been reduced by 5,000 sheep units
5 in the 30 or 40 day period preceding the August 8th hearing in
6 Tucson.

7 3. The Navajo Tribe and the Navajo people have initiated
8 and accepted voluntary livestock reduction; moreover, with the
9 increased education of the Navajo people and the showing of a
10 present program to effectuate said livestock reduction, voluntary
11 reduction to range capacity will continue to take place.

12 4. Government-imposed and forced livestock reduction in
13 the past created a disastrous situation, economically, culturally
14 and medically (psychologically and physiologically).

15 5. Forced livestock reduction imposed from the outside,
16 that is to say by the government, would result in the same kinds
17 of problems which existed in the 1930s and 1940s, to wit, physical
18 resistance, psychological damage, nutritional damage, and increased
19 alienation and hostility between Indians and Whites.

20 6. The Hopi have not been livestock people whereas the
21 Navajo have been livestock people and livestock mean much less
22 to the Hopi than to the Navajo.

23 7. Only a few Hopi have ever expressed an interest in
24 grazing livestock in the Joint Use Area, and, of these few Hopi,
25 there is none who has been refused grazing in the Joint Use Area.

26 8. The Navajo and the Hopi can work out problems between
27 them without governmental intervention.

28 9. If there is to be a dispute, it would be better that
29 the dispute be between the actual parties in interest without the
30 intervention of the federal government.

31 10. The practical problems involved in enforcing livestock
32 reduction are so immense that it is impossible to conceive of any

1 workable livestock reduction program other than one voluntarily
2 entered into by the Navajo Tribe.

3 11. The Navajo people use the livestock as their principal
4 source of protein; and the Navajo people are living at present
5 on a barely adequate diet such that any livestock reduction would
6 seriously impair their health.

7 12. The Navajo people have voluntarily been engaging in
8 voluntary livestock reduction in the Joint Use Area, which reduc-
9 tion has been initiated successfully by the Navajo people.

10 13. Hopi cattle can and have been found in several areas
11 of the Joint Use Area.

12 14. The Hopi have and regularly do gather wood in various
13 sections of the Joint Use Area.

14 15. The Hopi have no specific plan for use of the Joint
15 Use Area.

16 16. The Hopi have established water development facilities
17 in the Joint Use Area.

18 17. The Hopi have established at least one major farm in
19 the Joint Use Area.

20 18. The number of Hopi stockmen is minimal and the evidence
21 establishes that such number includes some 45 people who merely
22 wish to go into the livestock business but who presently possess
23 no livestock.

24 19. No Navajo Tribal Chairman has ever denied the right
25 to use the Joint Use Area to the Hopi Tribal Chairman or to the
26 Hopi people.

27 20. The Joint Use Area is being used by the Navajo people
28 in a way consistent with Navajo standards of reasonable use of
29 land.

30 21. The Navajo have established and are using the Joint
31 Use Area in a fashion so as to maintain a subsistence level of
32 standard of living.

