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In The United States District Court  
For The District Of Arizona  
No. Civ 74-842 Phx-ehc

Ivan L. Sidney, Chairman of the Hopi Tribal Council of  
the Hopi Indian Tribe, for and on behalf of the Hopi  
Indian Tribe,

Plaintiff,

vs.

Peter Macdonald, Chairman of the Navajo Tribal Council  
of the Navajo Indian Tribe, for and on behalf of the  
Navajo Indian Tribe,

Defendant,

vs.

Evelyn James, et al.,

Intervenor.

Deposition Of Peter M. Whiteley, Ph. D.  
Volume Ii  
March 22, 1989

Pursuant to Notice taken on behalf of Defendant at  
1700 Lincoln Street, Suite 4000, Denver, Colorado  
80203, at 9:07 A m., before L. Lynne Stammen,  
Registered Professional Reporter and Notary Public  
within Colorado.

Appearances:

Mary Gabrielle Sprague and James E.  
Scarboro, Attorneys at Law, from the Law Firm of Arnold  
& Porter, 1700 Lincoln Street, Suite 4000, Denver,  
Colorado 80203, appearing on behalf of the Plaintiff.

John W. Rogers, Attorney at Law, from the  
Law Firm of Brown & Bain, P. A, 2901 North Central  
Avenue, Post Office Box 400, Phoenix, Arizona 85012,  
appearing on behalf of Defendant Macdonald.

Also present: Barbara Bogan.

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I N D E X

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whereupon, the following proceedings  
were taken pursuant to the Federal Rules of Civil  
Procedure:

Peter M. Whiteley, Ph. D. - Volume Ii,  
having been previously duly sworn to state the whole  
truth, testified as follows:

Examination

By Mr. Rogers:

Q Dr. Whiteley, before we broke yesterday we  
had a brief exchange of questions and answers regarding  
some of the fieldwork that you conducted in August of  
1988. Yesterday I posed the question to you of who you  
spoke to during your field trip in August of 1988, and

14 I put the question to you again: Who did you talk to  
15 during your field trip during August of 1988?

16 A I talked to quite a number of people. I  
17 can't remember all of the occasions in which I spoke to  
18 Hopis. If you can ask a question that's more  
19 specifically focused, I might be able to answer that  
20 more directly.

21 Q Well, during the field investigation or  
22 field trip that you took, did you conduct any  
23 interviews with Hopis?

24 A Yes, I -- yes.

25 Q And were any of these interviews

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1 concerning either the Hopitutskwa or Navajo-hopi  
2 relations?

3 A Yes.

4 Q And who were the Hopis that you spoke to  
5 regarding these subjects?

6 A May I ask something of counsel?

7 Q Certainly.

8 (Discussion off the record between  
9 deponent and his counsel.)

10 A This is a point which I would like to be  
11 confidential, for the record.

12 Q Okay. Fair enough. And I guess I should  
13 get it on the record.

14 Mr. Rogers: Yesterday we had some  
15 discussion about extending a certain degree of  
16 protection for Dr. Whiteley's testimony in source  
17 materials regarding certain subjects.

18 Counsel for the Hopi Tribe and I have  
19 discussed entering an agreement similar to that which  
20 has been entered for Dr. Vanette and for Dr. Adams, I  
21 believe several other experts regarding the  
22 confidentiality of information, the sources.

23 Before we started this morning, we  
24 discussed briefly that the court reporter has means of  
25 designating certain parts of the transcript as

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1 confidential.

2 Just so that we're able to keep track of  
3 this during the course of the deposition, the following  
4 exchange of questions and answers will be deemed to be  
5 confidential, pursuant to the terms of the agreement  
6 similar to that entered on July 19, 1988, regarding  
7 Dr. Vanette.

8 And, Counsel, I take it that under the  
9 terms of the agreement which we are going to draft, I  
10 take it that this material may be used pursuant to  
11 paragraph 3 or to terms similar to paragraph 3 of the  
12 agreement of July 19, 1988.

13 Ms. Sprague: That's correct.

14 Q (By Mr. Rogers) Having designated the  
15 following exchange as being confidential, Dr. Whiteley,  
16 who did you speak to during your August 1988 field trip  
17 regarding the Hopitutskwa or Navajo-hopi relations?

18 A Without consulting my notes again, I am  
19 not sure that I can give you a complete answer to that  
20 question, but those individuals who I could definitely  
21 remember involved in such questions included Abbott  
22 Sekaquaptewa, Sekaquaptewa is spelled

23 S-e-k-a-q-u-a-p-t-e-w-a; Walter Hamana, Hamana is  
24 spelled H-a-m-a-n-a; Leigh Jenkins; Herschel Talashoma,

25 T-a-l-a-s-h-o-m-a; Lawrence Lomatska, Lomatska is

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1 L-o-m-a-t-s-k-a; and the identity of others I'm not  
2 sure that I can recollect at this point.

3 Q Would those be recorded in your field  
4 notes?

5 A They might, but I would have to look at  
6 them before I can definitely recall.

7 Q And Mr. Sekaquaptewa is a former chairman  
8 of the Hopi Tribal Council?

9 A He is.

10 Q Does he live in Kykotsmovi or Hotevilla?

11 A He lives in Kykotsmovi, yeah, which is  
12 K-y-k-o-t-s-m-o-v-i.

13 Q And Mr. Hamana is an employee of the Hopi  
14 Tribe?

15 A Yes.

16 Q And where is Mr. Jenkins from?

17 A Mr. Jenkins is from Bacavi, which is

18 B-a-c-a-v-i.

19 Q Where is Mr. Talashoma from?

20 A He's from Bacavi.

21 Q And where is Mr. Loma --

22 A Lomatska. From Hotevilla,

23 H-o-t-e-v-i-l-l-a.

24 Q During the course of this field trip, did  
25 you ask any of your consultants about Aka'usi?

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1 A Yes, I did.

2 Q And who did you ask about Aka'usi?

3 A Again, with the provision that I'm not  
4 sure I can remember all of those, I might have asked -- I  
5 definitely remember asking Abbott Sekaquaptewa.

6 Q Do you recall if you asked anyone else  
7 about Aka'usi?

8 A I don't recall.

9 Q Do you recall what Mr. Sekaquaptewa was  
10 able to relate to you regarding Aka'usi?

11 A I do.

12 Q And what did he relate to you?

13 A May I ask counsel?

14 Q Certainly.

15 (Discussion off the record between  
16 deponent and his counsel.)

17 A He indicated -- and, again, I -- I -- I recall  
18 this, but I don't recall it with as much precision as  
19 if I could be consulting my notes.

20 He indicated that Aka'usi was a Navajo by  
21 birth who had been adopted into his own clan, either by  
22 his own great grandmother or by his great grandmother's  
23 sister.

24 He indicated that, as a child, Aka'usi had  
25 been brought to Oraibi, O-r-a-i-b-i. Aka'usi is

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1 A-k-a -'- u-s-i. I think he indicated that he had come  
2 from around the Dilkon area or somewhere like that.  
3 I'm not exactly sure that I remember that correctly.

4 And that his parents -- Aka'usi's Navajo  
5 parents, or whoever had accompanied him, indicated -- or  
6 maybe it was Aka'usi himself who indicated that he  
7 could no longer sustain his life, owing to conditions  
8 of hardship -- again, I forget exactly what those  
9 conditions were -- and that he wanted to come and live in

10 Oraibi, where he would be taken care of, so  
 11 Mr. Sekaquaptewa's relative Eagle clan -- female Eagle  
 12 clan relative agreed to adopt him. And he was, indeed,  
 13 adopted into the Eagle clan at that time.

14 Q Was Mr. Sekaquaptewa able to relate any  
 15 other information to you regarding Aka'usi?

16 A He may have been, but I -- I don't recall  
 17 information about Aka'usi that Mr. Sekaquaptewa told me  
 18 which I can distinguish in my mind from what I already  
 19 knew from other sources until I go over my notes.

20 Q Did Mr. Sekaquaptewa indicate to you  
 21 that -- whether Aka'usi came to Oraibi as a boy or as a  
 22 man?

23 A As a boy.

24 Q Did Mr. Sekaquaptewa state whether he had  
 25 ever met Aka'usi?

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1 A He did not, but I think it would be  
 2 extremely unlikely you would have a recollection of  
 3 that. If my recollection is correct, Mr. Sekaquaptewa  
 4 was born around 1925; and Aka'usi, I think, died in  
 5 1928, something like that.

6 Q Now, in your last answer you said that  
 7 there were other sources of information that you had  
 8 regarding Aka'usi. What sources are those?

9 A May I consult with counsel?

10 Q Certainly.

11 (Discussion off the record between  
 12 deponent and his counsel.)

13 A On the advice of counsel, let me say that  
 14 I have not fully organized this material, and I cannot  
 15 give as definitive an answer to that question as I can  
 16 when I've gone over the materials that I have access  
 17 to.

18 I'm sorry. Could you repeat the  
 19 question.

20 Q Certainly. And, Dr. Whiteley, I  
 21 understand that there may be -- well, you may not have  
 22 access at this time to all the sources that you may  
 23 have looked at, and what I'm really trying to get now  
 24 is what you can recall.

25 A Okay. Both informationally and in terms

□Page 166

1 of where that information comes from?

2 Q Certainly. You referred in your last  
 3 answer to other sources of information that you had  
 4 about Aka'usi. What sources were those?

5 A One is the census notes of anthropologist  
 6 Mischa Titiev -- Mischa is M-i-s-c-h-a; Titiev,  
 7 T-i-t-i-e-v -- in which he lists all of the household  
 8 members of every house in Old Oraibi prior to the split  
 9 of 1906.

10 This information was gleaned from --  
 11 principally, I understand -- from Chief Tawakwaptiwa --  
 12 Tawakwaptiwa -- I guess we should spell him right this  
 13 time -- is T-a-w-a-k-w-a-p-t-i-w-a -- and Titiev's  
 14 principal interpreter, Don Talayesva, T-a-l-a-s-y --  
 15 -- sorry -- T-a-l-a-y-e-s-v-a.

16 Q Dr. Whiteley, would it help you to have a  
 17 pad of paper when you're trying to work out the  
 18 spellings on some of these?

19 A Actually, it might. Thank you.  
 20 Titiev lists clan identities; he lists

21 marriages; he lists children; he lists initiations into  
22 religious societies.

23 Again, without looking at Aka'usi's  
24 identification, I know that he is listed as a member of  
25 the Eagle clan. It's quite possible that Titiev said

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1 something like, "Navajo adopted into the Eagle clan."

2 I know also that he was initiated into one  
3 of the higher-order wuwtsim societies -- wuwtsim is  
4 W-u-w-t-s-i-m -- and if my memory serves me correctly,  
5 that was the Aa'alt, A-a -'- a-l-t, or Two-horn society.

6 I believe Titiev may also list his  
7 shepherding partners, but I am -- you know, I reserve  
8 judgment on that until I see them again, because Titiev  
9 doesn't -- in some cases does list individual men's  
10 shepherding partners. I can't remember for sure  
11 whether he lists Aka'usi's shepherding partners.  
12 That's one source.

13 The second source is a list of prisoners  
14 sent to Alcatraz in 1894 to '95. There is a photograph  
15 of these prisoners reproduced in several places: The  
16 Handbook of North American Indians, Volume 9; Harry  
17 James's Pages from Hopi History; and my Deliberate  
18 Acts. There is another photograph of prisoners at  
19 Alcatraz reproduced only, to my knowledge, in my  
20 Bacavi: Journey to Reed Springs.

21 Those photographs reproduced in the  
22 handbook and Pages from Hopi History have a series of  
23 identifications of the individuals in them. Only about  
24 half of those identifications are correct. I was able  
25 to establish the correct identities of those

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1 individuals -- although I don't know which face matches  
2 which identity in every case, I do not know  
3 specifically in Aka'usi's case -- from a list of  
4 prisoners constructed by the arresting officer, whose  
5 name was Lieutenant -- I can't remember.

6 Q Is that Constant?

7 A Williams. I think it was, yes. Thank  
8 you. Maybe he wasn't a lieutenant at that time, but he  
9 may have still been a captain. I'm not sure.

10 There is also a letter which I have a copy  
11 of -- oh, that -- that -- that list from Williams is located  
12 in the National Archives Branch in Laguna Niguel --  
13 L-a-g-u-n-a, new word N-i-g-u-e-l -- California.

14 There is also a letter to those arrested  
15 by H. R. Voth, V-o-t-h, wherein he discusses the  
16 welfare of each individual's family at Oraibi.

17 Again, I cannot remember, without looking  
18 at the letter again, whether he discusses Aka'usi's  
19 family, but I don't -- I'm not sure why he wouldn't,  
20 because I seem to recall he does with everybody else.  
21 A copy of that letter is in the Mennonite Library and  
22 Archives in North Newton, Kansas.

23 Other sources which are somewhat more  
24 indefinite to me, though they may not be to the other  
25 participants in this case, concern Shuichi Nagata's

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1 information. Shuichi is S-h-u-i-c-h-i; Nagata,  
2 N-a-g-a-t-a. There are mentions or implications of  
3 Aka'usi throughout his transformations -- transformations  
4 of Moencopi pueblo. I've also had some private  
5 conversations with Shuichi, whom I know quite well, in

6 which we have mentioned Aka'usi.  
 7 I think that's all I can remember for the  
 8 time being, but there may be one or two other places  
 9 which contain information about Aka'usi.

10 Q Dr. whiteley, during your fieldwork at  
 11 Bacavi that led up to the completion of your Ph. D.  
 12 thesis and ultimately to your two books, do you recall  
 13 if any of your consultants, aside from  
 14 Mr. Sekaquaptewa, told you about Aka'usi?

15 A I don't recall.

16 Q would that information be in your field  
 17 notes?

18 A If it exists, it would be.

19 Q Do you recall what Dr. Nagata was able to  
 20 relate to you about Aka'usi?

21 A I think we were talking about if there had  
 22 ever -- if we knew of any Navajos who had been initiated  
 23 into a higher-order religious society at Old Oraibi, a  
 24 Hopi religious society -- and this was in the context of  
 25 a -- on an advanced seminar at the School of American

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1 Research in 1982 -- and everybody present agreed, I  
 2 think, that there had -- that there were no such  
 3 Navajos.

4 And I think I indicated that, "well, there  
 5 was -- there's one fellow who appeared in Titiev's field  
 6 notes, Aka'usi," turned to Dr. Nagata, and he indicated  
 7 that this was correct.

8 Q Was Dr. Nagata able to relate any other  
 9 information regarding Aka'usi?

10 A Not that I can recall.

11 Q At this point can we -- I intend now to go  
 12 into Titiev. Do you need to retain this as being  
 13 confidential?

14 A In -- you need to go into Titiev's  
 15 information in his census notes?

16 Q Yes.

17 A No, I don't think that needs to remain  
 18 confidential.

19 Q Fair enough.

20 Mr. Rogers: So at least until we so  
 21 designate otherwise, the following exchange of  
 22 questions and answers will not be deemed confidential  
 23 per the terms of the agreement that we are going to  
 24 write.

25 Q (By Mr. Rogers) Is it your understanding

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1 of Titiev's field notes that the source of his  
 2 information was the chief of Old Oraibi? And I won't  
 3 pretend to try to pronounce his name.

4 A Yes.

5 Q Did he have any other sources of  
 6 information, to your recollection?

7 A Titiev did have some access to some agency  
 8 correspondence, and perhaps other Bureau of Indian  
 9 Affairs correspondence, but I don't know the extent of  
 10 that. What I mean to say by that is that there are  
 11 some letters printed in the appendix to Old Oraibi, the  
 12 book Old Oraibi, which are reproductions of government  
 13 letters.

14 Q Do you recall if -- well, from Titiev's  
 15 field notes, did it indicate which household he was  
 16 affiliated with?

17 A Yes, it did.  
 18 Q And which household was he --  
 19 A Oh, I can't remember without looking.  
 20 Q Do you recall if it indicated who he was  
 21 married to?  
 22 A I'm pretty sure it did, yeah.  
 23 Q Do you recall who he was married to?  
 24 A No.  
 25 Q Titiev's focus was on the households in

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1 the period before the split at Oraibi. From reviewing  
 2 his field notes, did you get a sense for the time frame  
 3 that he was focusing on?  
 4 A He was trying to focus -- and he has some  
 5 introductory notes to that, to that census -- on the  
 6 period immediately prior to 1906. I mean, I think he's  
 7 probably thinking about the period between 1900 and  
 8 1906. However, it's evident from those notes -- I'm --  
 9 well, it's evident from those notes that he records  
 10 some movements prior to 1906 and after 1906.

11 He has a series of notations, including  
 12 M -- Ma6, which means -- or I think it means move to  
 13 Moencopi before 1906. He has such notations as  
 14 H arrow O, O arrow B, which means went to Hotevilla  
 15 obviously after 1906; or, in 1906 went back to Old  
 16 Oraibi and subsequently back to Bacavi, okay? So he  
 17 has some indications of some movements.

18 There are some other notations which read  
 19 da6, which mean died before 1906, okay? So in other  
 20 words, there are some individuals who weren't alive in  
 21 1906 who, nonetheless, appear in the census. And my  
 22 interpretation is that they probably died shortly  
 23 before 1906.

24 But there are also, in some instances,  
 25 indications of parentage. The way that the -- the way

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1 that the households go, he numbers each household. He  
 2 gives each house -- he had a street plan of Old Oraibi  
 3 that was constructed, and he numbered each house and  
 4 went around each house and said, "who lived here, and  
 5 what were their relatives?" et cetera.

6 In some instances, as well as mentioning  
 7 the names of those living there, he also records who  
 8 their parents might be. Now, some of those parents may  
 9 have died in the 1850s or 1860s, but they're nowhere  
 10 reported as living at the time of those in the  
 11 household that he is trying to get down.

12 So I guess my conclusion -- again, without  
 13 consulting notes -- is that -- is that he's talking roughly  
 14 about the period between 1900 and 1906.

15 Q Do you recall if there is any indication  
 16 from the field notes as to who Aka'usi's adoptive  
 17 parents were?

18 A Yes -- well, his mother was Eagle clan. I  
 19 don't remember her name. And she was either -- she was  
 20 either Katsinmana, K-a-t-s-i-n-m-a-n-a, or she was  
 21 Katsinmana's sister, whose name I cannot recall. If it  
 22 was Katsinmana, then the adoptive father would, of  
 23 course, be Tuuvi, T-u-u-v-i.

24 Q Is there any indication from the field  
 25 notes as to who Aka'usi's biological parents were?

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1 A No.

2 Q Is there any indication from the field  
3 notes as to when Aka'usi went to Moencopi? I believe  
4 you said it was before 1906. Did he provide a more  
5 specific time reference?

6 A Not that I can recall. There may be other  
7 sources which would indicate that.

8 And, again, without wishing to speculate  
9 too much, without reconsulting my notes, if Katsinmana  
10 and Tuuvi were indeed his adoptive parents, it's very  
11 likely that he accompanied -- he accompanied them to  
12 Moencopi in the 1870s. There may -- and I think there  
13 are other sources which may allow a determination of  
14 that: Mormon records, archives, maybe Brown's  
15 journal.

16 Q Dr. Whiteley, do you have access to  
17 Titiev's field notes?

18 A I have access to his census notes. I  
19 don't have a copy of them. I don't have access to all  
20 of his field notes. In fact, all of his field notes  
21 are, to my knowledge, not accessible, because they went  
22 missing from Harvard's Peabody Museum library after  
23 they were donated by Estelle Titiev, Mischa's wife, in  
24 1982 or somewhere, 1981, which is --

25 Q Is typical of Harvard. As a former

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1 student there --

2 A Well, it's very distressing for someone  
3 like me, who is so interested in this stuff.

4 Q Well, the material that you've been  
5 commenting on as being in Titiev's field notes, were  
6 you referring to the census notes --

7 A Yes.

8 Q -- that you had reviewed?

9 A Yes.

10 Q And you have had access to those?

11 A Yes.

12 Q Do you have copies of the notes that  
13 you've just been referring to?

14 A Yes.

15 Mr. Rogers: At this time, I would like to  
16 make a request for those field notes.

17 Ms. Sprague: We will take that under  
18 advisement.

19 Q (By Mr. Rogers) Dr. Whiteley, you  
20 mentioned that -- in your book, Deliberate Acts, which  
21 has been marked as Exhibit No. 6, you have a photograph  
22 on page 87.

23 A Um-hum.

24 Q Now, Dr. Whiteley, on page 87 of  
25 Exhibit No. 6 you reproduce one of the photographs that

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1 you refer to, and then in the listing of people who you  
2 believe are in the photograph, you have a listing of  
3 Aka'usi.

4 A Um-hum.

5 Q But you have, in parentheses, "(Navajo,  
6 adopted into the Eagle clan)"--

7 A That's correct.

8 Q -- unquote. In the list -- well, in the  
9 caption to this photograph you do not identify where  
10 Aka'usi appears. Have you ever been able to figure out  
11 which of the people in the photograph is Aka'usi?

12 A I haven't. I've looked for several years

13 at this photograph, trying to identify individuals by  
 14 comparison with other photographs. I do have a guess,  
 15 but it's not substantive enough really to proffer.  
 16 Q well, what's your guess? And I will take  
 17 it simply as that. I'm not intending to hold you to  
 18 it.  
 19 A well, it's the person third from the left  
 20 in the middle row. Let's just check and see. Yeah,  
 21 next to Lomahongyoma.  
 22 Q Directly to his --  
 23 A To his right.  
 24 Q -- to his right?  
 25 A well, actually not next to him, because

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1 Lomahongyoma is standing in the --  
 2 Q He appears third from the left in the  
 3 middle row?  
 4 A Right.  
 5 Q Do you have any reason underlying that  
 6 guess? And I understand that this is in large part a  
 7 speculation on your part.  
 8 A Yeah. It's really purely speculative.  
 9 It's based on a very impressionistic, very subjective  
 10 sense of differences in appearances between Hopis and  
 11 Navajos. And clearly, as a white man, as an Englishman  
 12 who did not grow up in either of these societies, the  
 13 sophistication of my judgments on this score is very  
 14 primitive. But, if anything, this guy might look  
 15 slightly more like a Navajo than a Hopi. But I really  
 16 think it's -- as I say, my guess is not worth depending  
 17 upon in any sense.  
 18 Q Dr. Whiteley, on pages 321 and 322 of  
 19 Exhibit No. 6 you have a Footnote 21, which, I believe,  
 20 provides some additional information about the  
 21 photograph. Have you been able to locate that  
 22 footnote?  
 23 A Yes.  
 24 Q The footnote refers to a list contained in  
 25 the letter by Williams 11-29, 1894. Was that one of

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1 the lists that you're referring to?  
 2 A Yes.  
 3 Q And it also refers to a letter by  
 4 H. R. Voth --  
 5 A Yes.  
 6 Q -- 9-2, 1895? Was that also the letter by  
 7 Voth which you were referring to?  
 8 A That's correct.  
 9 Q I would like to mark as Exhibit No. 9 a  
 10 letter from what appears to be Constant Williams to the  
 11 Commission of Indian Affairs dated November 29, 1894.  
 12 It has a production number on the first page of Chron,  
 13 C-h-r-o-n, 2613.  
 14 (Whiteley Deposition Exhibit 9 was  
 15 marked.)  
 16 Ms. Sprague: John, may I ask you, for my  
 17 own information, whether this is a production number in  
 18 our case? I have never seen this particular  
 19 configuration before.  
 20 Mr. Rogers: The best I can tell you is, I  
 21 believe it is, but I'm not sure.  
 22 Q (By Mr. Rogers) Dr. Whiteley, is  
 23 Exhibit 9 the same as the source you referred to on 321

24 as Williams?

25 A I believe it is.

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1 Q I note on the last page there is a list.

2 Is that the list you were referring to?

3 A That's right, yes.

4 Q And partway down the page -- of the last  
5 page of Exhibit 9 there is a person which is identified  
6 as A-hyphen-k-a-u-accent-hyphen -- appears to be  
7 u-s-h-hyphen-i, is there not?

8 A There is.

9 Q Is that the person -- or is it your opinion  
10 that that reference is to Aka'usi?

11 A That's correct.

12 Q I take it you will agree with me that  
13 there is no further identifying information about this  
14 individual?

15 A No, not on this page.

16 Q It doesn't indicate a clan affiliation?

17 A That's correct.

18 Q Doesn't say anything about his ancestry?

19 A That's correct.

20 Q Is there anything else on the exhibit  
21 which sheds any light on Aka'usi?

22 A I would have to reread the exhibit.

23 (A pause occurred in the proceedings.)

24 A Having read the exhibit, no, there is no  
25 other information about Aka'usi's identity.

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1 Q I would like to mark as Exhibit No. 10 a  
2 two-page letter dated September 2, 1895, from H. R.  
3 Voth, written to a person whose name I'm not going to  
4 try to pronounce, but it's spelled  
5 L-o-m-a-h-u-n-g-y-o-m-a.

6 The photocopy of Exhibit No. 10 is  
7 difficult to read. I have taken the liberty of having  
8 it transcribed into a much more legible copy, and I  
9 would like to mark as Exhibit No. 11 a transcription of  
10 the letter which appears as Exhibit No. 10. And before  
11 I provide that to you, Dr. Whiteley, I want you to  
12 understand that the transcription is our best efforts  
13 to decipher what's in the copy. And if -- to the extent  
14 that you disagree with any of the transcription, you're  
15 certainly free to do that.

16 (Whiteley Deposition Exhibits 10 and 11  
17 were marked.)

18 Mr. Rogers: And, Counsel, I will  
19 represent to you that, to my knowledge, we have not  
20 produced Exhibit No. 10 to you before. It may have  
21 been produced among the materials that came out of the  
22 window Rock Collection in connection with Dr. Correll's  
23 materials; but this version of Exhibit No. 10 is  
24 something we only obtained last week, so as far as I  
25 know, we haven't produced it before.

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1 Ms. Sprague: That's fine.

2 Q (By Mr. Rogers) I suppose I should also  
3 say, for what it's worth, Dr. Whiteley, this version of  
4 Exhibit No. 10 comes from the Mennonite library. And,  
5 again, I apologize for the quality of the copy, but  
6 that was --

7 A No problem. I know what their records are  
8 like.

9 Q Dr. Whiteley, is Exhibit No. 10 the same  
10 as the letter from Mr. Voth that's referred to in  
11 Footnote 21 in your book?

12 A Yes, it is.

13 Q There is a reference, I note, on the  
14 second page of Exhibit No. 10, following the number 16,  
15 that refers to a person whose name is spelled  
16 A-k-a -- appears to be an apostrophe -- u-s-h-e-s. Maybe  
17 it's not terribly clear if there is an e between the h  
18 and the s. Is it your belief that this is referring to  
19 the same person you have identified in your book as  
20 Aka'usi?

21 A It is. I'm not sure I perceive his  
22 apostrophe, but, yes, it's the same individual.

23 Q And the reference says that "Aka'ushe's  
24 wife and children all well"?

25 A Yes.

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1 Q Is there any other references in the  
2 letter that you can find to Aka'usi?

3 A No.

4 Q Dr. Whiteley, the reason I wanted to go  
5 through these two exhibits is that I was puzzled. In  
6 reading your book, you refer to Aka'usi as a Navajo  
7 adopted into the Eagle clan. Do you recall the source  
8 of that information?

9 A I think my principal source at that time  
10 was Titiev's census notes; but I had, I believe,  
11 already spoken with Shuichi Nagata by the time -- at  
12 least by the time that I wrote the caption for the  
13 photograph, so I think it was probably from both of  
14 those sources.

15 Q And having had a chance to look at these  
16 two exhibits, does it help refresh your recollection  
17 whether you had talked to any of your consultants or if  
18 any of your consultants had talked to you about  
19 Aka'usi?

20 A It does help my recollection, but my  
21 recollection is still: negative or unknown.

22 Q Dr. Whiteley, really jumping ahead -- and I  
23 think we'll return to Aka'usi a little later -- Dr.  
24 Whiteley, yesterday when you were testifying about the  
25 places that you visited on your field trip in August

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1 1988, you mentioned that you went to the village of  
2 Shongopavi. When you were listing your consultants  
3 this morning, you did not mention anyone in that  
4 village. Do you recall if you spoke to anyone in that  
5 village from that village?

6 A I can't properly recall. I can give you  
7 an identity of someone I might have spoken to if I had  
8 been there; but at this point, again, I would request  
9 that we become confidential.

10 Mr. Rogers: Counsel, I was thinking,  
11 perhaps there is an easier way of designating parts of  
12 the transcript as being confidential, is just to wait  
13 until the end of the deposition and then have  
14 Dr. Whiteley go through the transcript and designate  
15 which parts he wants to keep confidential. That might  
16 keep us from having to continually have to designate  
17 while we're here on the record the things that are  
18 going to be confidential and the things that are not.  
19 Would that be a more sensible way of proceeding?

20 (Discussion off the record between  
21 deponent and his counsel.)

22 Ms. Sprague: That appears to be a good  
23 suggestion. The distribution of the transcript until  
24 Dr. Whiteley reviews it and signs it, I believe, will  
25 be to him and to you, so that if we can reach an

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1 agreement about the treatment of the transcript for  
2 that short period of time, that month or so, and to  
3 keep it all confidential in the interim, I think that's  
4 a good proposal.

5 Mr. Rogers: Within reasonable time  
6 constraints. At some point I'm going to need to use  
7 the material --

8 Ms. Sprague: Sure.

9 Mr. Rogers: -- but I think it may save us  
10 some time during the deposition, and we will also not  
11 have to continually keep in mind whether something is  
12 being confidential or not, and the opportunity, while  
13 reviewing the transcript, to, upon further reflection,  
14 material that you may have initially not considered  
15 confidential, think better of it as you review it, and  
16 it will at least give you that opportunity.

17 Ms. Sprague: Okay.

18 Q (By Mr. Rogers) With that short  
19 interlude, I think I've lost track of my question. Do  
20 you recall if you spoke to anyone from Shongopavi?

21 A I really don't recall. If I did, and if I  
22 asked him about this subject, it would most likely have  
23 been Patrick Lomawaima, L-o-m-a-w-a-i-m-a.

24 Q During the course of your fieldwork  
25 leading up to the preparation of your Ph. D. thesis and

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1 later of Exhibit No. 6, do you recall if any of your  
2 consultants related to you information regarding  
3 history of Moencopi?

4 A Yes, I do recall. Yes, there were some  
5 conversations in which aspects of the history of  
6 Moencopi were addressed.

7 Q Do you recall who those people were?

8 A Who told me about the history, or --

9 Q Yes.

10 A I can recall certainly who one of them  
11 was, and I think I can probably recall who a second  
12 person was, but my only problem with this is that  
13 without really thoroughly reexamining my notes, maybe I  
14 could come up with a lot of other people who, in fact,  
15 I had more significant conversations with in the long  
16 run.

17 The two that I can immediately recall I  
18 don't really have any problem with indicating; again,  
19 as long as this -- I can designate this as confidential.

20 Q Yes.

21 A One was Harry Kewanimpewa,  
22 K-e-w-a-n-i-m-p-t-e-w-a. Another was Alfred  
23 Lomahongyoma. He's -- his English spelling of his name  
24 is L-o-m-a-h-o-m-a. Mr. Kewanimpewa has since become  
25 deceased.

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1 I am certain that I have talked also with  
2 members of the Masaquaptewa family,  
3 M-a-s-a-q-u-a-p-t-e-w-a, particularly Herman, who is  
4 now deceased, and of the Fred family, Nathan Fred

5 family; particularly in relation to Moencopi, I imagine  
6 Gertrude Fred, Nathan's wife, whose maiden name is  
7 Dallas. She's from Moencopi.

8 I have also talked with, in the presence  
9 of Alfred Lomahongyoma, Antone Sekakuku -- that's  
10 S-e-k-a-k-u-k-u -- briefly with Ernest Elmer, who, I  
11 believe, may be a relative of Aka'usi, although we did  
12 not discuss Aka'usi, and I can't honestly remember  
13 whether we discussed Moencopi, but he, I think, was  
14 raised in Moencopi.

15 I have also talked with or been in the  
16 presence of conversations which were held with Lloyd  
17 Honyumptewa, H-o-n-y-u-m-p-t-e-w-a, who, I think, is  
18 now deceased, but who was from Moencopi.

19 I have talked at great length with  
20 Herschel Talashoma, whose brother, Ambrose, is married  
21 into Moencopi, and whose -- some of whose children -- some  
22 of Herschel's children have resided at Moencopi at one  
23 point or another, I think particularly Patricia  
24 and -- yeah, I think Patricia especially, perhaps with  
25 her father's brother's family.

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1 I have talked at considerable length with  
2 the Pooyouma family, spelled P-o-o-y-o-u-m-a,  
3 especially Rex and Vera. Rex is Vera's father. They  
4 are from Hotevilla. A number of Vera's brothers and  
5 sisters -- and I can't remember how many there are -- are  
6 married into Moencopi and live there, and Vera has  
7 lived there periodically.

8 That's all I can remember off the top of  
9 my head. I'm sure that there are probably many more.

10 Q Dr. Whiteley, I realize you don't have  
11 your field notes here. Are you able, for any of these  
12 individuals, to relate what they were able to tell you  
13 without making reference to your field notes, or has  
14 enough time passed that you would be unable to do it  
15 without your field notes?

16 A I think I can recall some things which  
17 Harry Kewanimptewa told me about aspects of Moencopi  
18 history, but he is substantially the only person who I  
19 can recall without looking at those field notes, and  
20 I -- and I cannot recall all of what he might have told  
21 me about aspects of Moencopi history without looking at  
22 the field notes in which I recorded those things that  
23 he had said to me.

24 Q Fair enough. Can you recall -- well, can  
25 you describe what he related to you, to the extent that

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1 you can recall.

2 A Well, I'll do my best. Let me approach  
3 this in a somewhat unsystematic manner.

4 He indicated that he had a sister whose  
5 name was Ora, who died probably in 1916 or '17. She  
6 may have even died from the flu epidemic, but I'm not  
7 sure exactly when that hit Hopi. It seems to have been  
8 earlier than other parts of the world.

9 Ora was married to Walter Tsinamti,  
10 otherwise known as Walter Lewis, who was from Moencopi,  
11 who had a store at Moencopi; and Walter came to Bacavi  
12 to marry Ora and then took her back to Moencopi to  
13 live.

14 Walter seems to have been a sort of  
15 reasonably prominent individual in Moencopi in certain

16 respects. He used to come to Bacavi to arrange horse  
 17 races with Navajos and footraces, so forth. He may  
 18 have actually have even lived in Bacavi while Ora was  
 19 alive, but they didn't -- I think they married in about  
 20 1914, and when she died, he may have returned to  
 21 Moencopi.

22 while -- while -- I seem to recall that she  
 23 got sick, and the entire Kewanimptewa family went over  
 24 to Moencopi to be with her while she was sick, and  
 25 stayed there for maybe two or three years. Harry would

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1 have been 10 or 11 years old at the time, and he can  
 2 recall the impact of the flu epidemic there.

3 He says -- I seem to recall his memory of  
 4 there being a number of corpses being taken on the back  
 5 of a wagon to the graveyard, and he can recall going  
 6 there with Thomas Banyacya as a boy. Maybe I have that  
 7 wrong. I'm not sure I know Thomas Banyacya's age so I  
 8 can verify it that way.

9 I have asked Harry on a number of  
 10 occasions about Tuuvi. I was particularly interested  
 11 at one point in the date of Tuuvi's death, which I  
 12 believe to be about 1887 or 1888.

13 An Arizona historian by the name of  
 14 P. T. Reilly, who has studied a lot of Mormon history  
 15 in northeastern Arizona, indicated that he had a guess  
 16 at one point that Tuuvi may have actually been murdered  
 17 by the Mormons, particularly Lot Smith. I thought this  
 18 was a fascinating idea.

19 I tried to ask people, including Harry,  
 20 including Helen Sekaquaptewa, whether this was, in  
 21 fact, the case. The only response I got was that -- to  
 22 my questions about "How did Tuuvi die?"-- was that he  
 23 got sick, he got old, and he died.

24 Of course, there are indications in the  
 25 record about Tuuvi being beaten up by Mormons, possibly

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1 by Lot Smith. And Lot Smith was known as a violent  
 2 character. He was eventually killed by a Navajo man in  
 3 the early 1890s around Tuba City.

4 what else? Ngoti'ima, which is spelled  
 5 N-g-o-umlaut-t-i -'- i-m-a, otherwise known, I think, as  
 6 Sam Jenkins, was the father's brother -- maybe I'm mixing  
 7 this up. I can't -- I can't say this for certain. It  
 8 was either Sam Jenkins or Marshall Jenkins. Anyway,  
 9 the father or the father's brother of Marshall  
 10 Jenkins. Marshall Jenkins I talked to a great deal  
 11 from 1980 through 19 -- through his death. I can't  
 12 remember exactly the year when he died. 1982, 1983.

13 Anyway, this guy, Ngoti'ima, went over to  
 14 Moencopi fairly early on. I think he had a store there  
 15 in Upper Moencopi, or at least on top. There was no  
 16 division between Upper and Lower, I don't think, in  
 17 terms of villages at the time. I was just told a  
 18 number of stories about Ngoti'ima. I don't think that  
 19 anything -- anything in them really relates to the  
 20 history of Moencopi per se.

21 Something else that I remember from Harry  
 22 Kewanimptewa is driving through the streets of Tuba  
 23 City, and him indicating that the Mormon's had, in  
 24 fact, built a lot of these houses, and that the Mormons  
 25 were kicked out by the government, I think at Hopi

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1 request. And this conforms with the historic record,  
 2 of course, that occurred about 1902, 1903. They were  
 3 bought out for about \$45,000, which was not very much  
 4 money, even in those days.

5 He also indicated the site of the -- the  
 6 Mormon mill that was built at Moencopi in either 1873,  
 7 1874, 1875; showed me the sign on the side of the  
 8 road -- you know, Arizona State Monument, or whatever it  
 9 is -- which commemorates that structure.

10 I think Harry Kewanimptewa also told me  
 11 about the history of Moencopi, in that there had been  
 12 villages there or a village there from a long time back  
 13 which had been, indeed, under the control of his clan,  
 14 which was Spider clan, or at least if not under the  
 15 control of that clan, then his clan had migrated  
 16 through that area, having come up the Colorado River,  
 17 according to the Spider clan migration traditions, and  
 18 they stopped in Moencopi for a while, and then they  
 19 went further north; they went back up along the Little  
 20 Colorado, up the Colorado, further north towards  
 21 Tokoonavi, and came back down to Moencopi, and settled  
 22 there again before moving to Old Oraibi.

23 Helen Sekaquaptewa told me that the reason  
 24 that nobody in Oraibi died in the 1898 -- '99 or 1898  
 25 smallpox epidemic which carried off many people from

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1 First and Second Mesas -- there are figures there in  
 2 Deliberate Acts -- was because the people at Old Oraibi  
 3 had been vaccinated by Mormons who had been invited  
 4 into Old Oraibi by Tuuvi to do this.

5 Of course, vaccination at that time was a  
 6 pretty horrendous procedure, and especially for people  
 7 who had no formal understanding of western theories of  
 8 disease etiology; so this was an event which had caused  
 9 Tuuvi's ejection from Oraibi, and this is why he had  
 10 started to live at Moencopi full-time.

11 This is a very interesting and intriguing  
 12 historical story. I have not been able to verify it or  
 13 falsify it by comparison with any Mormon records that I  
 14 have so far encountered, either in Salt Lake City or in  
 15 Provo, Utah, or -- I guess those are the two places.

16 Q By your best estimate, when did this  
 17 occur, that Tuuvi was ejected?

18 A That's -- has to be speculative, because it  
 19 has to put together that story. And there is, of  
 20 course, another story that Tuuvi actually means -- is a  
 21 nickname which means outcast, outcast of Oraibi.

22 But my best estimate for that, it has to  
 23 be a speculation based on my knowledge of Moencopi  
 24 history from independent sources, archival sources,  
 25 published sources and so forth. I would have to say

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1 that that would be in the 1870s.

2 On the other hand, we know that Tuuvi had  
 3 the name Tuuvi in 1858 from Haskell's journal or, if  
 4 it's not Haskell's journal, maybe it's Gibbons'  
 5 journal. I can't remember which. So I don't know what  
 6 that says about the interpretation of that particular  
 7 story.

8 I mean, it may be that -- it may be that  
 9 Tuuvi's subsequent association with Mormons was the  
 10 cause of the interpretation that his name meant cast  
 11 out; in other words, as opposed to hawk

12 rationalization. It's not necessarily something which  
 13 can be taken as historical truth in the sense that  
 14 historical truth is generally meant in western  
 15 discourse.

16 Q well, based upon what your consultants  
 17 were able to tell you, or based upon your reading of  
 18 archival materials, is it your sense that Moencopi  
 19 started being settled on a year-round basis sometime in  
 20 the 1870s?

21 A Yes.

22 Q And that Tuuvi and his wife were one of  
 23 the first groups of settlers that settled in Moencopi  
 24 in the 1870s?

25 A Yes.

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1 Q According to what your consultants have  
 2 told you, or based upon a reading of archival  
 3 materials, do you know if there were any other people  
 4 who accompanied Tuuvi in the settlement?

5 A Yes. His -- Tuuvi's in-law, Talti,  
 6 T-a-l-t-i -- I don't know what kind of an in-law Talti  
 7 is, and I have wrestled with this over the years,  
 8 whether he is a brother-in-law or a father-in-law or a  
 9 clan-in-law, and -- and Talti's wife, whose name escapes  
 10 me, but they are mentioned in Lee's journal, 1873 -  
 11 1874.

12 who else? I can't remember any other  
 13 names. I can't remember if there were any others  
 14 mentioned in the sources that I have looked at.

15 Q Based upon what your consultants have told  
 16 you, or based upon another reading of archival  
 17 materials, is it your understanding that Aka'usi  
 18 accompanied them to the settlement the Moencopi?

19 A I don't feel sufficiently comfortable with  
 20 that material to make a definite judgment. If the idea  
 21 is correct that Aka'usi was indeed adopted by Tuuvi and  
 22 Katsinmana, then I think it would be reasonable to  
 23 infer that he did indeed accompany them to Moencopi.  
 24 If that's not correct, then I have to try and make  
 25 other inferences from what material is available.

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1 Q Fair enough. Do you know if Aka'usi went  
 2 by any other name?

3 A I have never heard another name, except,  
 4 of course, I've read Russell's report, which indicates  
 5 that he has a Navajo name of Bijooshi.

6 Q Do you know if Tuuvi went by any other  
 7 name?

8 A I have heard this, yes. It's  
 9 something -- it's Qotswayma or something. It's printed  
 10 in the back of Bacavi: Journey to Reed Springs. If  
 11 you have a copy of that there, it should be in the list  
 12 of prominent men at the very end.

13 A Yeah, Qotswayma,  
 14 Q-o-umlaut-t-s-y -- w-a-y-m-a.

15 Q That is the name that appears on page 166  
 16 of the book Bacavi Journey to Reed Springs?

17 A That's correct.

18 Q Is that name translated in English?

19 A Yes, it does; but as with so many Hopi  
 20 names, it's impossible to know its direct reference  
 21 without knowing the intentions of the name-giver. This  
 22 was the subject of the paper I was talking about

23 yesterday.

24 "Qots," I think in this context, just  
25 means "white." It comes from "qootsa," meaning

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1 "white." "wayma" means "walking," generally speaking.  
2 So it means "white walking." But if it refers to a  
3 bird, it could perhaps refer to the bird's flight. So  
4 it may not mean walking; it may just mean a mode of  
5 locomotion.

6 The whiteness could also refer to a cloud;  
7 it could refer to an animal; it could refer to the  
8 appearance of a kachina which was dressed in white  
9 color, and a number of other sorts of references.

10 Q Did any of your consultants refer to a  
11 person who went by the name of Siwilti'ima?

12 A I don't believe that any of my consultants  
13 have ever raised that name, no. Siwilti'ima,  
14 S-i-w-i-l-t-i-m-a. I know that's not how he appears in  
15 all this, but that's the most accurate thing.

16 Mr. Rogers: Why don't we take a break at  
17 this point.

18 (A break was taken.)

19 Q (By Mr. Rogers) Dr. Whiteley, yesterday  
20 you testified that during the course of your research  
21 leading up to your Ph. D. thesis, and later your two  
22 books, some of your consultants discussed the Hopi  
23 divisional land claim, the Hopitutskwa, and Navajo-hopi  
24 relations. And, again, I realize you don't have your  
25 notes with you. Can you recall who provided you with

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1 information regarding those subjects?

2 A Again, I can't recall that well. I think  
3 perhaps the most significant information on the Tutskwa  
4 came from Harry Kewanimptewa and Alfred Lomahongyoma,  
5 especially the former.

6 On Hopi-navajo relations that's much more  
7 complicated, because odd remarks during conversations,  
8 ritual performances featuring depictions of Navajo  
9 behavior are so numerous over the years that I -- you  
10 know, even if I went through all of my notes, I don't  
11 think that I could come up with a complete  
12 representation of those sorts of data, if you will,  
13 which formed my understanding of the Hopi perception of  
14 their relationship with Navajos and so forth.

15 Q Was Mr. Kewanimptewa a resident of  
16 Bacavi?

17 A Yes. He was born -- yes.

18 Q Was he born in Old Oraibi?

19 A No. He was born in Hotevilla.

20 Q And -- I'm sorry, I missed the gentleman who  
21 was Alfred --

22 A Alfred Lomahongyoma. This is this guy  
23 who, in English, pronounces his name Lomahoma,  
24 L-o-m-a-h-o-m-a.

25 Q And was he also a resident of Bacavi?

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1 A He is -- resides most of the time -- or at  
2 least did until two or three years ago; I don't know  
3 what's happened since -- in Winslow, but his primary  
4 village of identification is Bacavi. He also has a lot  
5 of relatives in Hotevilla.

6 Q During the course of your fieldwork at  
7 Bacavi, and then later in the field trips that you

8 took, including the one in 18 -- or August of 1988, did  
9 any of your consultants from First Mesa ever discuss  
10 the Hopitutskwa?

11 A Not that I can recall.

12 Q Can you recall if any of your consultants  
13 from Second Mesa discussed that topic? And that should  
14 exclude the gentleman from Shongopavi that you think  
15 may have discussed it in August of 1988.

16 A Yes. Although, again, without looking at  
17 my notes, I'm not absolutely sure.

18 Q Can you recall who you spoke to from  
19 Second Mesa regarding the Hopitutskwa?

20 A George Nasoftie, N-a-s-o-f-t-i-e. It's  
21 possible that I spoke with Bert Puhuyestewa,  
22 P-u-h-u-y-e-s-t-e-w-a, from Mishongnovi,  
23 M-i-s-h-o-n-g-n-o-v-i, and briefly with Edmund  
24 Nequatewa, N-e-q-u-a-t-e-w-a.

25 Q I'm sorry. Was that Edmund?

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1 A Edmund.

2 Q Anyone else from Second Mesa?

3 A It's possible that I was present at  
4 conversations which included discussion of Tutskwa,  
5 T-u-t-s-k-w-a, with Alonzo Quavehema from Shipaulovi;  
6 A-l-o-n-z-o; Quavehema, Q-u-a-v-e-h-e-m-a; Shipaulovi,  
7 S-h-i-p-a-u-l-o-v-i; and there may be others that I  
8 can't recall.

9 Q I understand that you had some consultants  
10 from Moencopi; is that correct?

11 A Or who have lived at Moencopi and live  
12 some -- and live some of the time elsewhere nowadays.

13 Q Do you recall if any of these consultants  
14 talked about the Hopitutskwa?

15 A I don't recall.

16 Q And, again, I realize you don't have your  
17 field notes here, and it's been a while since you  
18 conducted these conversations. For any of the  
19 gentlemen that you've mentioned, do you recall what you  
20 learned from these gentlemen without your field notes,  
21 or are you in a position to be able to do that?

22 A I can recall some of what I learned from  
23 Harry Kewanimptewa and some of what I learned from  
24 Alfred Lomahongyoma.

25 Q What do you recall that Mr. Kewanimptewa

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1 was able to tell you?

2 A Mr. Kewanimptewa took me on a trip -- or  
3 took me on several trips, including to some of the Hopi  
4 boundary shrines. He took me to Kawestima, which  
5 was -- well, Kawestima is -- Kawestima, K-a-w-e-s-t-i-m-a.  
6 He took me to Tokoonavi, T-o-k-o-o-n-a-v-i, and showed  
7 me Pisisvayu, P-i-s-i-s-v-a-y-u, and pointed out where  
8 Sipaapuni was, S-i-p-a-a-p-u-n-i. He also took  
9 me -- well, he took me into Moencopi, but that's -- I don't  
10 know how relevant that is.

11 He also took me to Hote -- on the way -- en  
12 route to Gallup, took me past the boundary shrine -- or  
13 the boundary -- I don't know if it was a shrine, but the  
14 boundary agreed upon between Hopis and Navajos, sealed  
15 with a presentation of a Navajo Tiiponi to somebody  
16 from walpi sometime in the mid 19th Century -- Tiiponi is  
17 T-i-i-p-o-n-i -- which he indicated was just west of the  
18 current town of Ganado, G-a-n-a-d-o.

19 That's about all I can remember.

20 Q When did this trip occur?

21 A Well, there were two trips that I've  
22 mentioned, as well as others. The ones that I  
23 mentioned include two. To Kawestima was in, if I  
24 recall, December 1980, and to Gallup was sometime in  
25 1981.

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1 Q You mentioned that he took you to  
2 Kawestima. Is there another name for the landmark that  
3 he took you to?

4 A Overlooking Betatakin, B-e-t-a-t-a-k-i-n.

5 Q Did he identify Betatakin as at  
6 Kawestima?

7 A Not specifically, no. He said the whole  
8 area, which included both Betatakin and Keet Seel and  
9 possibly even Inscription House, was the area referred  
10 to as Kawestima.

11 Q Does that include the whole length of  
12 Tsegi Canyon, or was it narrower than that?

13 A I'm sorry?

14 Q Was it narrower than that?

15 A The identification of Kawestima is  
16 supposed to be more precise than that, and there are  
17 certain narratives which identify it precisely in Hopi  
18 oral tradition.

19 I think he, at the time, was not reciting  
20 those narratives to me, and what he was indicating was  
21 that he didn't know exactly where this precise point  
22 was supposed to be located, so he was indicating that  
23 the general area of Kawestima would include Betatakin,  
24 Keet Seel, and Inscription House. Whether that  
25 includes the entire Tsegi Canyon, I don't know. I

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1 don't think I asked him that question.

2 Q Did he belong to any societies, Hopi  
3 societies?

4 A Yeah. He was initiated into the -- I don't  
5 know if he was a Katsinwimkya or Powamuywimkya ----

6 Katsinwimkya is K-a-t-s-i-n-w-y --

7 K-a-t-s-i-n-w-i-m-k-y-a; Powamuywimkya is

8 P-o-w-a-m-u-y-w-i-m-k-y-a -- but he was Kachina

9 initiated. He was also initiated into the Blue Flute

10 society. He was not initiated into one of the

11 higher-order Wuwtsim societies, W-u-w-t-s-i-m.

12 Q Do you recall if he was an officer of any  
13 of these societies or holding an official position in  
14 any of these societies of which he was a member?

15 A He had been at one point the Kivamongwi,  
16 K-i-v-a-m-o-n-g-w-i, of, I think, Bacavi's  
17 K-w-a-n-k-i-v-a.

18 It's very likely that had the Blue Flute  
19 society persisted in Bacavi, he would have become the  
20 chief of that society, but that's speculative on my  
21 part. It was within his lineage. He was the only  
22 likely inheritor.

23 Q Dr. Whiteley, in your two books,  
24 Deliberate Acts and also your history of Bacavi, you  
25 identify a man, Kewanimptewa, as someone who is

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1 considered to be the chief of Bacavi or head  
2 spokesman. Was this person you've been referring to as  
3 Harry Kewanimptewa related to him by lineage?

4 A Yes. He was his son, his first son.

5 Q Do you know what clan he belonged to?

6 A Harry or his father?

7 Q Harry.

8 A Spider.

9 Q What was Mr. Lomahoma able to relate to  
10 you about the Hopitutskwa?

11 A Without consulting my notes, I think  
12 perhaps the most significant thing was that in past  
13 times -- for a long time in the past, cattle herding from  
14 Old Oraibi used to be far to the north, and that  
15 specifically the name Cow Springs, the Cow Springs  
16 that's near Kayenta, was a direct translation of the  
17 Hopi term for the place wakasva, w-a-k-a-s-v-a, and  
18 that Hopis used to herd, of course, at Wakasva. Cow  
19 Springs is inside the 1882, but the Hopis used to herd  
20 their cattle beyond there too.

21 I should probably tell you that I'm  
22 remembering now some things that Eugene Sekaquaptewa  
23 told me about cattle outside of the 1882, which  
24 pertained to his experience as a boy of driving cattle  
25 to the railroad from Hotevilla or Old Oraibi or

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1 wherever they were corralling their cattle, and that  
2 this was thought to be a traditional area over which  
3 they herded cattle.

4 Sekaquaptewa is the same spelling as we  
5 have for Abbott and Helen.

6 Q And I take it Eugene is Abbott and Emory's  
7 brother?

8 A Correct.

9 Q You said you recalled he described driving  
10 cattle. Did he describe where he was driving cattle  
11 to?

12 A To -- I can never remember whether it's  
13 Sunset or Sunrise, but there used to be some -- I mean,  
14 there's still a trading post down there, but I don't  
15 think it's the same one, which was close to the  
16 railroad. Anyway, one of those places.

17 Q Is this by Winslow?

18 A I can't recall that exactly. I know there  
19 is this place called Sunset Crossing by Winslow, but I  
20 don't think that is the same place. I think it's  
21 probably Sunrise. And that's near Leupp. Leupp is  
22 L-e-u-p-p.

23 He -- this fellow Eugene has also told me  
24 about eagle hunting and coyote hunting -- or eagle  
25 gathering and coyote hunting to the south of Winslow,

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1 towards Payson, P-a-y-s-o-n; and I think I've heard  
2 that from other people too, but I can't recall one  
3 exactly.

4 Q Do you recall if Eugene was able to tell  
5 you when this eagle gathering occurred?

6 A Oh, I think he indicated that it was -- that  
7 it had occurred recently, but it was a perpetuation of  
8 an age-old practice. In other words, this was just the  
9 most recent example of something that had been going on  
10 continuously.

11 Q Well, did he tell you for his -- well, did  
12 he say if he went eagle gathering in these areas, or  
13 was he relating what other people had told him?

14 A Don't remember.

15 Q Was Mr. Lomahoma able to relate anything  
16 else about the Hopitutskwa that you can recall? And,  
17 again, I understand that you don't have your field  
18 notes here, and there may be more information contained  
19 in them.

20 A Not really that I can recall, no.

21 Q Can you recall anything else that Eugene  
22 Sekaquaptewa told you that related to the Hopitutskwa?

23 A He told me about eagle gathering in other  
24 areas. He told me -- or somebody associated with him  
25 told me of events in the 1981 eagle-gathering practices

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1 where Eagle clan people, including at the lead of Percy  
2 Lomaquahu, which is L-o-m-a-q-u-a-h-u, found eagle  
3 nests destroyed by Navajos. These would be north of  
4 Third Mesa. I don't know where exactly. Again, I  
5 mean, there's probably quite a lot more, but it's not  
6 in my memory without looking at my notes.

7 Q Fair enough. Is it your recollection that  
8 Eugene Sekaquaptewa was a member of the Eagle clan?

9 A Yes.

10 Q When he describes eagle-gathering areas,  
11 was he describing Eagle clan areas, or was he  
12 describing areas of other clans as well?

13 A In the case of this one to the north where  
14 Percy went, it was certainly an Eagle clan gathering  
15 area. The one towards Payson, I can't remember.

16 Oh, I guess in terms of that, I've also  
17 heard -- I can also recall Rex Pooyouma talking about  
18 gathering turtles to the south of Hotevilla, and I  
19 assume that he meant -- or I assume that my memory is  
20 correct, and that that referred to the Little Colorado  
21 River or its tributaries.

22 And many other people have told me about  
23 gathering spruce from Kiisiwu, K-i-w-i -- K-i-i-s-i-w-u,  
24 which, again, is in the 1882, but it's part of Hopi  
25 conception of Tutskwa. Many people have told me about

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1 that.

2 Q Putting to one side the field trip you  
3 took in August of 1988, did any of your consultants  
4 ever describe the boundaries of the Tutskwa to you?

5 A Yes.

6 Q Who?

7 A Certainly Harry; I think probably Eugene;  
8 possibly Alfred; possibly Patrick; possibly some  
9 others.

10 Q When you refer to Patrick --

11 A Lomawaima.

12 Q When you say "possibly Alfred" and  
13 "possibly Patrick," do you have a recollection of  
14 conversations with --

15 A No, I don't.

16 Q Do you recall what Mr. Kewanimptewa said  
17 were the boundaries of the Tutskwa?

18 A Yes; those generally depicted in my  
19 report. Do you want me to go over them?

20 Q Well, perhaps I can approach it this way:  
21 were there any respects in which his description was  
22 inconsistent with the description which you provide, I  
23 believe, on pages 4, 5, and 6 of your Hopitutskwa  
24 report?

25 A No, it wasn't inconsistent.

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1 Q Do you recall what Mr. Sekaquaptewa or  
2 Eugene Sekaquaptewa told you were the boundaries? Or  
3 let me ask: Do you have a specific recollection of  
4 your conversation with Mr. Sekaquaptewa when he  
5 described the boundaries?

6 A I don't really have such a specific  
7 recollection, no, but I can recall that what he said  
8 was not inconsistent with what's represented in my  
9 report.

10 Q Now, you mentioned that in your field trip  
11 of August 1988 you spoke to Abbott Sekaquaptewa  
12 regarding either the Hopitutskwa or Navajo-hopi  
13 relations. Can you recall what he told you?

14 A What I asked him specifically about that,  
15 I can recall, was the meaning of the etymological  
16 derivation and then the meaning of certain of these  
17 Tutskwa boundary shrines, some of which I did not know  
18 the meaning of and could not figure out from my  
19 existing knowledge of the Hopi language.

20 Q And I think we'll probably be getting to  
21 that a little later. Did you obtain any other  
22 information from Mr. Sekaquaptewa relating to these  
23 topics?

24 A Not that I can recall.

25 Q What information did you obtain from

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1 walter Hamana during this field trip regarding the --

2 A That was the same, same questions.

3 Q And what information did you obtain from  
4 Leigh Jenkins regarding these subjects?

5 A Same.

6 Q What information did you obtain from  
7 Herschel Talashoma?

8 A Same.

9 Q And what information did you obtain from  
10 Lawrence Lomatuska?

11 A Lomatska. The same.

12 Q And what information, if you can recall,  
13 did you obtain from Patrick Lomawaima?

14 A I can't recall from Patrick; but if I did  
15 indeed talk to him, I -- I just can't remember if I did  
16 at this point -- it was probably the same.

17 Q Again, it was to find out the etymological  
18 meaning or derivation of the various words?

19 A Yes.

20 Q Was there any disagreement among your  
21 consultants as to the etymological meaning or  
22 derivation of some of these place names?

23 A I don't think everybody was entirely  
24 agreed, no. I mean, part of the reason is that -- and  
25 this is precisely why I was asking them in the first

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1 place -- is because it's not automatically clear from  
2 these words what their -- to speak formally for a  
3 minute -- what their morphemic constituents are. Do you  
4 know what a morpheme is?

5 Q No.

6 A Okay. A morpheme is sort of a -- a section  
7 of a word which has a specific meaning. So, for  
8 example, the word "going" in English is -- consists of  
9 two morphemes, "go" and "ing." I don't think I need to  
10 go into this any further, but you see what I'm getting

11 at?

12 Q Yes.

13 A A number of these places are not, to my  
14 knowledge, easily divisible into identifiable morphemes  
15 which have identifiable meanings, so that's why I was  
16 asking some people. Now, the reason for -- or associated  
17 with this is the fact that some of their  
18 interpretations were slightly different.

19 The other point is that, as with personal  
20 names, place names can sometimes have all sorts of  
21 connotations which are somehow alluded to in the name  
22 itself, but not -- not exactly specified in the name.  
23 Somebody who is trying to interpret that name might  
24 emphasize one of those allusions slightly differently  
25 from somebody else.

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1 Q From among the places that you identified  
2 in your report as being some of the boundary markers of  
3 the Tuts kwa, can you give me an illustration of that?

4 A I'd have to -- I'd have to do this more  
5 formally before I can be fully confident that I was  
6 getting this right, but, for example, Tokoonavi, which,  
7 I think, I translate in the report as "black  
8 mountain"-- and this comes from Stephen's translation,  
9 which was confirmed by some people I asked last  
10 August -- the ordinary, whatever that means, word for  
11 "black" is "qoma," q-o-umlaut-m-a.

12 "Tokoo" is probably -- let me do this  
13 hypothetically, because I feel much more confident  
14 saying that this is a hypothetical illustration of what  
15 I'm talking about than it's an exact depiction of this  
16 particular problem with reference to Tokoonavi.

17 Q That's fine.

18 A "Tokoo" is not a term that's used  
19 ordinarily to mean "black" or "dark" in ordinary Hopi  
20 discourse these days, so the idea is that probably that  
21 morpheme, referring to something black or dark, is part  
22 of the Hopi language as it was 500 years ago or 1000  
23 years ago or whenever. And because it's a place name,  
24 like so many English place names, it's persisted as  
25 such. It doesn't reflect other changing patterns of

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1 the language.

2 So, for example, in England, a lot of the  
3 names of rivers are Celtic names. Even when the  
4 Anglo-saxons invaded and so forth, the Romans invaded,  
5 they were around. Celtic names for rivers persisted.  
6 They may be the only significant elements of Celtic  
7 languages that have really persisted into modern times,  
8 but they have persisted as such. The same sort of  
9 thing, I think, is happening with Tokoonavi.

10 Q So I take it that at least with respect to  
11 some of the places on the boundary, that there is some  
12 uncertainty as to the etymological derivation of some  
13 of the words?

14 A Yes.

15 Q Is one illustration of that Kawestima?

16 A Yes, K-a-w-e-s-t-i-m-a.

17 Q And I take it there is some uncertainty as  
18 to whether that refers to a place or a person?

19 A There are, yes, differences of opinion  
20 about that. To shortcut this a little bit, I assume  
21 you're referring to one of my notes in Deliberate

22 Acts?

23 Q Yes, I think there is a reference to  
24 that. Yes. If you would refer to Exhibit No. 6 to  
25 page 257 -- no, I'm sorry -- 328, Footnote 3.

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1 Dr. Whiteley, have you had a chance to review that  
2 footnote?

3 A Yes.

4 Q Is that still your understanding as to the  
5 etymological derivation of the word Kawestima? Or have  
6 you been able to obtain additional information since  
7 the publication of your book?

8 A I haven't been able to obtain additional  
9 information. It's still my understanding of the fact  
10 that it is an etymological problem.

11 Q I take it you still don't know if its  
12 origin is from a former village chief's name or if it  
13 refers to an archaic term for a sacred mountain?

14 A That's correct.

15 Q At this point, I would like to turn to  
16 your Hopitutskwa report. If you would please refer to  
17 Exhibit No. 1. And let me also be -- it may be of some  
18 help to you to have Exhibit No. 2, which is the errata  
19 sheet, although I don't think that there are any major  
20 changes that have been made in the report.

21 Dr. Whiteley, on page 3 of Exhibit No. 1,  
22 in the first full paragraph toward the lower half of  
23 the page, you state, "The overall Tutskwa is then a  
24 composite of the interests of different sociopolitical  
25 units." What did you mean by that statement?

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1 A That it is a com -- it is a composite of the  
2 interests of different clans and different villages and  
3 other sociopolitical units that exist in Hopi social  
4 structure.

5 Q You also say on that page, "Different  
6 clans have different shrines which they would emphasize  
7 differently from other clans." Do different clans have  
8 different descriptions of the area that's within the  
9 Tutskwa?

10 A I'm not quite sure what you're asking.

11 Q Well, I'm trying to get back to the first  
12 statement in which you conclude that the Tutskwa's a  
13 composite of the interests of different sociopolitical  
14 units. I'm trying to ferret out what you mean by that  
15 statement. Are you saying that the Tutskwa is an  
16 amalgamation of various clan clans?

17 A And village claims, yeah, and maybe ritual  
18 sodality claims.

19 Q Let me see if I can break this out. When  
20 referring to sociopolitical units, that would include  
21 clans?

22 A Yes, given my skepticism of the  
23 meaningfulness of the term "clan" in English.

24 Q Would it also include villages?

25 A Yes.

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1 Q Perhaps it includes societies?

2 A Yes.

3 Q Dr. Whiteley, in your book Deliberate Acts  
4 and elsewhere in your publications, you draw a  
5 distinction between two groups of people, the first of  
6 which you describe as Sukavungsinom,

7 S-u-k-a-v-u-n-g-s-i-n-o-m, and another group which you  
8 believe -- describe as Pavansinom, P-a-v-a-n-s-i-n-o-m.  
9 Is this distinction also relevant to the -- your  
10 description of different sociopolitical units?

11 A Certainly.

12 Q Well, let me start with -- well, are there  
13 other sociopolitical units that should be considered?

14 A I think most of them would be covered in  
15 one way or another by those categories that we have  
16 just established. Maybe we should add phratries.

17 Q And that's p-h-r-a-t-r-y or i-e-s. I  
18 would like to start with the clans and clan phratries.  
19 Do different clans have different interpretations of  
20 what land area is included within the Tutskwa?

21 A I don't know.

22 Q Well, let me ask you this: Does the  
23 Tutskwa have its principal reference to clans? Is it a  
24 clan concept?

25 A As a composite, it represents the

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1 interests of specific sociopolitical units, including  
2 clans, but it represents the interests of the whole of  
3 Hopi society, which is partly composed of those clan  
4 units.

5 Q Is your answer -- would your answer be the  
6 same with respect to clan phratries? Is that --

7 A I think it would be, yes.

8 Q Are there certain areas within the  
9 Hopitutskwa that are claimed by particular clans?

10 A Yes.

11 Q Do you know of any clans which claim all  
12 the area that you have described as being in the  
13 Hopitutskwa?

14 A I think in a general sense, but only in a  
15 general sense -- this is because I don't have sufficient  
16 knowledge of Hopi tradition to say it more  
17 specifically -- the Bear clan would claim the whole  
18 thing, or if not the Bear clan per se, then the various  
19 heads of the Bear clan, be they Kikmongwis or others.

20 Q And in your opinion, would that be true  
21 with Third Mesa?

22 A Yes.

23 Q Would it also be true with Second Mesa?

24 A Yes.

25 Q Would it also be true at First Mesa?

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1 A No, but it probably was historically.

2 Q Does the Bear clan still survive on First  
3 Mesa?

4 A Not to my knowledge.

5 Q Now, you mentioned that the Bear clan  
6 would probably claim the whole area which you described  
7 in Tutskwa. I take it there were clans who would be  
8 claiming less area than the entire area you have  
9 described in your report. Is that a fair statement?

10 A Well, it's fair in one sense. It's not  
11 fair in the sense that the Bear clan claim is really  
12 for all Hopis, which include all the other clan  
13 members.

14 Q Is that tied to the Bear clan's conception  
15 of their historical role in the migrations to Hopi?

16 A Yes, but it's also tied to the other  
17 aspects of the Bear clan's historical role in Hopi

18 society.

19 Q Is the -- is it the Bear clan that claims to  
20 have been the first clan to arrive at Hopi?

21 A Yes.

22 Q Are there other aspects of the Bear clan's  
23 interpretation of its historical role that account for  
24 its claim of -- expansiveness claim on behalf of not just  
25 their clan, but all Hopis?

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1 A Well, the other aspect that I was thinking  
2 of, and I just said that, had to do with the Bear  
3 clan's traditional ownership of the position of  
4 Kikmongwi in Hopi society; a village chief, for want of  
5 a better translation.

6 But without being able to recall this as  
7 exactly as I would like, the specific migration  
8 traditions, or at least some of them, are going to  
9 include a meeting at Shongopavi, S-h-o-n-g-o-p-a-v-i,  
10 between the Bear clan leader and Maasaw, M-a-a-s-a-w.  
11 So that aspect of the tradition, I think, is probably  
12 important.

13 Q Dr. Whiteley, pages 4 through 6 of  
14 Exhibit No. 1 you discuss -- or describe various  
15 landmarks along the boundary of the Hopitutskwa. Are  
16 you saying that all clans agree on the same boundaries,  
17 as you have described?

18 A Well, I think this is the common  
19 agreement, generally speaking. But when you say  
20 "clans," you are not identifying differences of  
21 knowledge within clans, which is an important part of  
22 the distinction between Pavansinom and Sukavungsinom.

23 In other words, you will have certain  
24 members of each clan who will have a great deal more  
25 knowledge about the clan history, clan traditions, clan

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1 shrines than others.

2 Q So for any given clan there may be  
3 differences in our interpretation as to the extent of  
4 the Tutskwa along the division that you've just  
5 mentioned between Sukavungsinom and Pavansinom?

6 A Certainly Pavansinom will know a lot more  
7 about traditional areas that belong to the clan or  
8 associated with the clan's history than other members  
9 of clans, I e. Sukavungsinom.

10 Q And because of this difference in  
11 knowledge, there may be different interpretations  
12 within the same clan?

13 A If by "different" you mean that some  
14 people know more and have the authority to speak more  
15 about what's accurate than others, then, yes, there  
16 will be different interpretations.

17 Q Well, again, along the same dividing line,  
18 between -- I can't pronounce it for the life of me --  
19 Sukavungsinom and Pavansinom would there be  
20 disagreement between these two groups within a camp, or  
21 within a clan, as to whether a particular area is  
22 included within a clan claim or within the Tutskwa?

23 A I don't think there would be disagreement  
24 as such, because Pavansinom simply have greater  
25 authority when it comes to interpreting those

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1 traditions. So if you interviewed a Sukavungsinom and  
2 asked them about an area, they may leave out areas just

3 because they don't know about it. I wouldn't describe  
4 that as "disagreement."

5 Q But I take it that it's possible that a  
6 member of a clan would not identify a particular area  
7 that another clan may remember as being part of the  
8 clan?

9 A It's very possible that a 6-year-old  
10 member of a clan who knows nothing about clan  
11 traditions would not identify anywhere, but what would  
12 that mean?

13 Q Well, are you saying that anyone who is  
14 over 6 years old is a member of this group you have  
15 identified as Pavansinom?

16 A No, I'm not saying that. That was simply  
17 an example to show that the nature of your question was  
18 not answerable as such.

19 Q Is there such a thing as a clan claim to  
20 land? Do clans claim land areas as somehow belonging  
21 to the clan?

22 A Yes. But, again, I footnote to my "yes"  
23 the fact that I have criticized conventional  
24 etymological interpretations of clan land ownership.

25 Q Well, I may be having some problem simply

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1 with definitions. I understand that according to the  
2 conventional view, as described by Titiev and  
3 Dr. Eggan, they described at Oraibi that there were  
4 certain lands about Oraibi, or perhaps even within the  
5 community itself, that were identified as being clan  
6 lands that were used for agriculture or for other  
7 purposes.

8 A That's correct.

9 Q And I understand that from some of your  
10 other publications, particularly the two articles you  
11 have written regarding Hopi clans, that you're critical  
12 of the historical authenticity of that view, or at  
13 least how rigorously clan land ownership was implied.

14 A I don't know that "historical  
15 authenticity" would cover the nature of my criticisms.  
16 It has more to do with assessed concept of the  
17 constitution-of - dissent groups in anthropological  
18 literature and how that -- the application of that  
19 concept is made in the Hopi case. I guess that refers  
20 to historical authenticity, but in a specific way.

21 Q Now, the use of the -- and the reference as  
22 to the clan lands that was used by Dr. Eggan and  
23 Titiev, is that the same thing as what you were  
24 describing earlier as the claim of the Bear clan to  
25 perhaps all of the Hopitutskwa?

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1 A No.

2 Q Or is there a distinction between clan  
3 ownership between those two different areas?

4 A Well, the way that you have just phrased  
5 the question sort of, in a sense, obviates the problems  
6 that we have just raised about the constitution of  
7 clans or the way that they might own things.

8 There is a distinction in what I was  
9 talking about regarding Bear clan ownership of the  
10 entire Tutskwa and the nature of clan lands as these  
11 have been described, pertaining particularly to  
12 agricultural fields, by Eggan and Titiev.

13 Q Well, putting to one side the concept of

14 clan lands as discussed by Dr. Eggan as applicable to  
 15 agricultural fields, there is a concept of clan  
 16 ownership of land similar to that as what you described  
 17 for the Bear clan as distinct from the idea of clan  
 18 ownership or clan lands for use as agricultural  
 19 fields?

20 A If what you're getting at is eagle -  
 21 gathering areas, which are owned, belong to different  
 22 clans, then, yes.

23 Q Aside from agricultural fields and aside  
 24 from eagle-gathering areas, are there any other  
 25 types -- well, do the Hopi recognize a clan ownership of

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1 lands for other purposes?

2 A Without thinking about that question  
 3 further, I -- I would say yes, in the sense that, for  
 4 example, when people go eagle gathering, they collect  
 5 plants in their clan eagle-gathering area. They might  
 6 hunt rabbits in that area. In that sense, I suppose  
 7 that area belongs to the clan for those purposes.  
 8 Maybe they would gather fuelwood in those areas. Maybe  
 9 they would gather pinons.

10 Whether there are specifiably clan hunting  
 11 areas for specific purposes, whether there are  
 12 specifiably clan herding areas, that's a very  
 13 complicated issue, because certainly rights passed down  
 14 in herding from fathers to sons, or from mothers'  
 15 brothers to sisters' sons, or indeed between women.  
 16 Whether that's conceived of as a clan right depends  
 17 upon how you look at it.

18 Titiev would explain that in terms of clan  
 19 rights. I have disputed that interpretation, insofar  
 20 as it identifies the clan as a joint -- as a corporate  
 21 unit with a joint estate in property.

22 Q Dr. Whiteley, the entire area of northern  
 23 Arizona is littered with prehistoric ruins. Am I  
 24 correct in understanding that that is part of clan  
 25 migration, that certain clans have an affinity for

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1 certain of these ruins?

2 A Yes.

3 Q And that -- do clans claim ownership over  
 4 certain of these ruins? Are they seen as being --  
 5 belonging to certain clans?

6 A Yes.

7 Q In what sense do the clans claim ownership  
 8 over the ruins?

9 A In the sense that this is where their  
 10 ancestors lived and came from and where the clans might  
 11 return to gather the embodiments of their clan  
 12 ancestors as eagles. They might return to those areas  
 13 to gather or hunt other resources, maybe to herd in  
 14 those areas.

15 Q Does the clan conception of ownership of  
 16 these ruins include the notion that whatever use rights  
 17 they have are exclusive to the clan? Do they have the  
 18 right to exclude other clans from this area?

19 A I think, generally speaking, that's true;  
 20 but some of these ruins are the -- the ancestral sites of  
 21 several clans together, so you wouldn't necessarily say  
 22 that one clan had exclusive ownership of that  
 23 particular ruin. And, again, this gets to the  
 24 difficult problem of what a clan consists of in the

25 first place that I have addressed in my writing.

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1 (At this time, Mr. Scarboro entered the  
2 deposition room.)

3 Q Are there clan claims to land which extend  
4 outside the Tutskwa?

5 A Not to my knowledge.

6 Q Are you familiar with the ruin in Arizona  
7 called Montezuma's Castle?

8 A Yes.

9 Q There are public lands that claim that as  
10 theirs, or belong to them?

11 A You're right, yes, you're right; but I  
12 don't think -- yes, you're right. I had forgotten about  
13 that. And similarly, there are other ruins -- some  
14 identified; some not -- like Palatkwapi, which are  
15 associated -- P-a-l-a-t-k-w-a-p-i -- which certain clans  
16 claim that they came from.

17 Q And if I understand it correctly, the  
18 clans claim to own those ruins? They belong to them?

19 A I -- I don't -- I can't answer that with  
20 authority either way.

21 Q I take it you do not consider, in your  
22 opinion, those ruins as being part of the Tutskwa?

23 A No. Those ruins which are outside the  
24 Tutskwa are not part of the Tutskwa.

25 Q And yet there are some ruins that are part

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1 of the clan claims that are within the Tutskwa?

2 Ms. Sprague: I object. I'm not sure  
3 Dr. Whiteley stated they were part of the clan claim.

4 Mr. Rogers: Well, that's what I'm trying  
5 to find out, if I've -- I've got the right sociopolitical  
6 unit; and I understand there is an amalgamation of  
7 different units, and I'm trying to figure out how it  
8 pieces together. And Counsel raises a good point.

9 Q (By Mr. Rogers) Are these ruins we're  
10 referring to, those at Montezuma Well or Montezuma's  
11 Castle -- are they considered to be owned by particular  
12 Hopi clans?

13 A I -- I can't answer that question. Unless  
14 we specify absolutely the Hopi cultural concept of  
15 ownership, I don't know what the question means. And  
16 in order to do that, we would have to ask authoritative  
17 members of those clans.

18 Q Well, I think you've raised a good point.  
19 What, in your opinion, is the Hopi conception of  
20 ownership?

21 A Well, I can't answer that either, for the  
22 very reason that I stated that I couldn't answer how it  
23 applied to these ruins outside of the Tutskwa. In  
24 other words, the question is too complicated.

25 Q In what respects do you consider the

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1 question to be too complicated?

2 A In respect -- in the respects that we have  
3 to deal with a whole series of cultural concepts.  
4 Maybe we would have to assemble a lot of Hopis in one  
5 room, and they would have to have a lot of knowledge of  
6 the English language and Euro-american traditions of  
7 ownership and how these impact on legal interpretations  
8 of ownership and how these might or might not equate  
9 with various Hopi concepts which occupy the same

10 general realm of interpretation in Hopi life, if there  
 11 is indeed a similar general realm.  
 12 Q Dr. Whiteley, I think I'm perplexed. Are  
 13 you saying that you don't know whether the Hopi  
 14 perceive that they own the Tutskwa?  
 15 Mr. Scarboro: What do you mean by "own"?  
 16 Mr. Rogers: That's what my question is.  
 17 Mr. Scarboro: Well, that's what my  
 18 question is too.  
 19 Ms. Sprague: Would it help to break down  
 20 ownership of particular lands or things or address them  
 21 separately?  
 22 The Deponent: I'm not sure. We could  
 23 try.  
 24 Mr. Scarboro: What's the question?  
 25 Mr. Rogers: That's what I'm pondering.

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1 Q (By Mr. Rogers) Let me try it from this  
 2 angle, Dr. Whiteley: You state in your report that the  
 3 overall Tutskwa is then a composite of the interests of  
 4 different sociopolitical units. You have indicated  
 5 this morning that some of those units -- or the units  
 6 that you consider significant would be clans, clan  
 7 phratries, villages, societies, and the distinction  
 8 which you have drawn in your writing between  
 9 Sukavungsinom and Pavansinom.  
 10 What interests -- well, when you made this  
 11 statement, what interests did you have in mind as it  
 12 related to clans?  
 13 A Interests in the sorts of examples we've  
 14 raised up to this point: agricultural interests,  
 15 herding interests, hunting interests, gathering  
 16 interests, eagle-gathering interests, mineral -  
 17 collecting interests, religious, quotes, interests.  
 18 Q And what do you mean by the word  
 19 "interest"?  
 20 A Is it not evident, self-evident?  
 21 Q Not to me.  
 22 A I mean something which would indicate, in  
 23 a general way, how Hopi sociopolitical units would  
 24 relate to these land areas in question, without  
 25 specifying that this is a concept which equates

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1 absolutely with the western legal concept of ownership  
 2 of property.  
 3 Q Dr. Whiteley, I think that's a fair  
 4 comment. Would you characterize this interest,  
 5 however, as a property interest?  
 6 Mr. Scarboro: Object. Calls for a legal  
 7 conclusion. What are you asking him? Are you asking  
 8 him for a legal opinion?  
 9 Mr. Rogers: Certainly not.  
 10 Mr. Scarboro: Well, then define "property  
 11 interest."  
 12 Q (By Mr. Rogers) Dr. Whiteley, do you  
 13 understand the question?  
 14 A No, I don't.  
 15 Q You have no idea of what a property  
 16 interest is? And I'm not asking for your opinion as a  
 17 lawyer or for a legal conclusion.  
 18 A I have an idea of what a property interest  
 19 is, but I'm not sure that when I say that I have such  
 20 an idea it's the same as your idea, and maybe you are

21 basing your idea on legal knowledge which I don't  
 22 have.

23 Q Well, within Hopi society is there a  
 24 conception as to whether people have the right to make  
 25 physical use of a particular land area, or is that

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1 conception divorced from Hopi culture?

2 A No. I think that concept is quite clearly  
 3 known.

4 Q Within Hopi culture, is there an  
 5 understanding of rights to exclude other people from  
 6 lands in which Hopi may have rights?

7 A There is that concept. It may not be  
 8 all-encompassing for all sorts of usages of resources.

9 Q In some circumstances there may be a right  
 10 to exclude others; in other circumstances that may be  
 11 conditional? In some circumstances you can exclude  
 12 some, but not all?

13 A In some circumstances you can exclude. In  
 14 other circumstances you may not exclude. You may not  
 15 have a right to make a significant judgment as to  
 16 exclusion or not.

17 Q Now, I want to tie this back to the  
 18 concept of clans or clan phratries. As a concept of  
 19 within the clan, is there a concept that certain clans  
 20 have use rights to certain areas and have either an  
 21 unconditional or a conditional right to exclude others  
 22 from that area?

23 A Yes.

24 Q And this morning you raised the example of  
 25 the Bear clan, which you said that they would include

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1 all the Hopitutskwa within their conception of  
 2 ownership.

3 A I don't think I put it quite that way.

4 Q Well, that's what I'm trying to get at, in  
 5 a sense, that there are clans -- or there is a  
 6 conception -- with the referent being clans -- rights to  
 7 land use and rights to exclude others, either  
 8 conditionally or unconditionally.

9 When you were referring to the Bear clan  
 10 claims this morning, was it in that sense that you're  
 11 referring to their clan claim?

12 A No.

13 Q Okay.

14 A I was referring to the idea that the  
 15 Kikmongwit, K-i-k-m-o-n-g-w-i-t, I e. those individuals  
 16 who are specific Kikmongwis, as well as close lineage  
 17 members of the Bear clan which owns the position of  
 18 Kikmongwi, at Second and Third Mesas anyway, and in the  
 19 past First Mesa, could speak for the whole of Hopi  
 20 society in saying that they owned the Tutskwa. That, I  
 21 think, is a different thing from saying the Bear clan  
 22 per se owns exclusively or nonexclusively the Tutskwa.

23 Q But at least in some sense of the word the  
 24 Bear clan would assert ownership, on behalf of the  
 25 Hopis, of the entire area?

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1 A The Momngwit would, the chiefs,  
 2 M-o-m-n-g-w-i-t. But again we have to include our  
 3 division of Pavansinom and Sukavungsinom within an  
 4 understanding of how a clan is structured.

5 Q Well, perhaps I am lost. would the

6 Kikmongwi always be a member of the Pavansinom?  
 7 A Yes.  
 8 Q In what sense would the chief, according  
 9 to Hopi cultural mores, own Tutskwa?  
 10 Ms. Sprague: I object. I don't believe  
 11 Dr. Whiteley stated that the chief owned the Tutskwa.  
 12 A Could you rephrase the question.  
 13 Q (By Mr. Rogers) why don't you have the  
 14 last answer read.  
 15 (Page 77, lines 7 through 10 were read  
 16 back.  
 17 Q Dr. Whiteley, when in your previous answer  
 18 you refer to "they" owned the Tutskwa, who were you  
 19 referring to when you used the word "they"? Was it  
 20 Kikmongwi, or are you referring to Hopi, or are you  
 21 referring to some other --  
 22 A I was referring to the Kikmomngwit.  
 23 Q In what sense did you -- well, can you tell  
 24 me what you mean when you refer to the Kikmomngwits  
 25 owning the Tutskwa.

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1 A I'm not sure I can tell you what that  
 2 phrase means, given my former expressed doubts about  
 3 whether the concept of ownership is directly  
 4 translatable into and out from Hopi cultural practices  
 5 and beliefs and interpretations of their relationships  
 6 with the land.  
 7 Q Perhaps I'm not understanding your  
 8 answer. Are you saying that you don't know in what  
 9 sense Kikmongwis owned the Tutskwa?  
 10 A I'm saying I'm not sure when we come to  
 11 specify ownership as that most significant aspect of a  
 12 statement, including those other aspects which went  
 13 into my statement or your previous statement. I'm not  
 14 sure what that means in a Hopi cultural context, unless  
 15 we are willing to truly try to interpret Hopi cultural  
 16 practices and reflect them accurately.  
 17 Mr. Rogers: Want to go ahead and break  
 18 for lunch?  
 19 Mr. Scarborough: Sure.  
 20 (A lunch break was taken, after which time  
 21 Mr. Scarborough was not present in the deposition room.)  
 22 Mr. Rogers: Back on the record.  
 23 Q (By Mr. Rogers) Dr. Whiteley, I'm still  
 24 struggling to understand how the clan concepts relating  
 25 to property or relating to land fits into this

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1 composite which you described.  
 2 Now, you state on page 3 of your report,  
 3 "The overall Tutskwa is then a composite of the  
 4 interests of different sociopolitical units," and you  
 5 have identified clans or clan phratries as being one of  
 6 those sociopolitical units.  
 7 Perhaps the best way for me to ask the  
 8 question is this: In what respect, in your opinion,  
 9 does the Tutskwa reflect the interests of different  
 10 clans or different clan phratries?  
 11 A I think I'm not -- I'm not trying to evade  
 12 that question, but I think the Tutskwa represents the  
 13 interests of those different units.  
 14 Q Perhaps I'm having trouble with the word  
 15 "interests." By using the word "interests," are you  
 16 referring to a property interest, broadly defined, not

17 just in our own western cultural context?  
 18 A Broadly defined, and given that this has  
 19 to be a simplification of real complexities, yes.  
 20 Q Do clans make claims to particular  
 21 geographic areas that are delineated by boundaries?  
 22 A I believe so, yes.  
 23 Q This morning you mentioned that another  
 24 conception of a clan's affinity to a particular  
 25 geographic area would include perceived right to make

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1 physical use of the area; is that correct?  
 2 A That's correct.  
 3 Q And in some circumstances it would also  
 4 include the rights to exclude others, either  
 5 unconditionally or under certain conditions?  
 6 A That's correct.  
 7 Q Given this concept of interesting  
 8 geographical area, are there any clans who make a claim  
 9 to a geographic area which is as large as the Tutskwa?  
 10 A I take it that you're referring back to  
 11 the previous statement about Bear clan ownership of the  
 12 total Tutskwa; is that correct?  
 13 Q Well, if I understood your answers this  
 14 morning, is -- correct me if I'm wrong; I don't mean to  
 15 mischaracterize what you testified to this morning -- is  
 16 that, in a sense, a Bear clan's assertion of ownership  
 17 over the Tutskwa is on behalf of all Hopi --  
 18 A That's right.  
 19 Q -- and not just members of the Bear clan?  
 20 A That's correct, yes.  
 21 Q Using the Bear clan as an example, are  
 22 there -- is there a geographic area which the Bear clan,  
 23 or members of the Bear clan, recognize that they have  
 24 use rights within and have either conditionally or  
 25 unconditionally the right to exclude others?

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1 A I think that -- yes, there are. There are  
 2 Bear clan eagle-gathering areas.  
 3 Q And that this area for the Bear clan would  
 4 be smaller than the geographic area --  
 5 A Yes.  
 6 Q -- described as the Tutskwa?  
 7 A Yes.  
 8 Q May the same -- or may more than one clan  
 9 claim the same geographic area?  
 10 A Some of the clans overlap, and some of the  
 11 claims are joint claims, I understand. This gets us  
 12 back to the problem of the constitution of clans, clans  
 13 as opposed to phratries. Maybe it would help if I say  
 14 something about that.  
 15 Q Certainly.  
 16 A What I argue in my two-part article in the  
 17 Journal of Anthropological Research, 1985 and 1986, is  
 18 that certain sort of clans -- or what have been called  
 19 clans, really -- is a sort of sliding scale of  
 20 inclusiveness between clans and phratries, certain  
 21 clans. Other clans' identity over a longer period of  
 22 time is clearer. But for certain times, sometimes  
 23 you're not really sure if you're talking about a clan  
 24 or if you're talking about a phratry.  
 25 The example that I used along those lines

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1 is the Badger clan, which Titiev divides into the Real

2 Badger clan, the Gray Badger clan, and the Navajo  
3 Badger clan. And my view is that calling these three  
4 separate clans which are related to each other in a  
5 phratry is probably misconceiving the situation from  
6 what I understand to be Hopi perspectives on that.

7 So as this would apply to an eagle -  
8 gathering area, for example, if you had units like  
9 these units that Titiev has identified, these sorts of  
10 different Badger clans, you would say, "Okay, yes,  
11 these -- these units do have overlapping claims," or  
12 "They have joint claims to the same area."

13 But in that particular case, then you, as  
14 an anthropologist or whatever, have to step back and  
15 say, "well, are we really talking about clans here?"  
16 You can't -- and then you question your very concept of  
17 clan.

18 So to reanswer your question simply, yes,  
19 the answer is, that's quite true, certain clans have  
20 joint claims to certain areas, or they have overlapping  
21 claims in certain areas; but we always have to -- or at  
22 least I always have to put -- when I'm talking this  
23 precisely -- put the term "clans" in quotation marks, and  
24 maybe with a question mark in parentheses after it, to  
25 make sure that that's not a concept which is absolutely

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1 clear in the way that it's been used.

2 Q I want to make sure I understand your  
3 answer. If for those areas which appear to be joint  
4 areas or overlapping areas -- and let's use the  
5 illustration that you used, say, for the Real Badger  
6 and the Navajo Badger -- is what you're saying: It's  
7 difficult to say whether those are overlapping claims  
8 or whether you're describing claims simply of a  
9 phratry?

10 A Yes.

11 Q Are there any overlapping claims between  
12 phratries?

13 A I believe that there are, but I would -- I  
14 would have to do a little more research into that  
15 before I could support that belief with appropriate  
16 evidence.

17 Q Fair enough. Are these instances -- well,  
18 are these instances of conflicting claims, or are they  
19 instances of joint use between phratries, or are they  
20 both?

21 A I think they may be both, yeah.

22 Q Dr. Whiteley, on pages 3 through 6 -- I'm  
23 sorry -- pages 4 through 6, you identify a number of  
24 places around the boundary of Hopitutskwa. Are each of  
25 these places of significance culturally or religiously

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1 to all Hopi claims?

2 A Given the way that you have raised the  
3 question, the answer would be no. But, again, I think  
4 we would -- to get this culturally accurate, we would  
5 have to insist that there are different kinds of  
6 knowledge within clans.

7 There are individuals within clans who  
8 have special relationships, special ritual duties, and  
9 might have a much more special relationship with a  
10 particular shrine, owing to -- owing to those special  
11 duties.

12 Q Fair enough. If I -- and, again, I'm trying

13 to understand how the concept of clan or clan phratry  
 14 fits into the concept of the Tutskwa. By your answer,  
 15 are you saying that for, say, any particular location  
 16 that you've described along the boundary, that at least  
 17 some clans would not identify that as a place of  
 18 special significance to that particular clan?

19 A I think that's fair to say in general  
 20 terms, yes.

21 Q And that for various locations that you've  
 22 identified along the boundary, a particular location  
 23 may be of special significance to one clan for a  
 24 particular reason and also be of significance to  
 25 another clan for quite another reason?

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1 A Could be, yes, yes.

2 Q I want to move on to another  
 3 sociopolitical which you have identified, which is that  
 4 of villages. On page 3 you write, "villages have  
 5 rights over different areas as do clans." When you  
 6 refer to "areas," were you referring to geographic  
 7 areas?

8 A What other kind of areas might I have been  
 9 referring to?

10 Q Well, I was hoping that that was referring  
 11 to geographic areas.

12 A Yeah.

13 Q And that was your intent?

14 A Yes.

15 Q Do the various Hopi villages assert land  
 16 claims or have land claims that are distinct from the  
 17 Tutskwa?

18 A Villages have claims within the Tutskwa,  
 19 or within certain sections of the Tutskwa, which are  
 20 exclusive. For example, there used to be -- maybe there  
 21 still is -- a boundary between Second Mesa use rights in  
 22 certain respects and Third Mesa use rights in certain  
 23 respects. It was a boundary that was marked by formal  
 24 boundary markers called Qalalni, Q-a-l-a-l-n-i. In  
 25 that sense, yeah.

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1 Q Dr. Whiteley, from the Hopi perspective,  
 2 as you understand it as an anthropologist, do village  
 3 claims to lands entail a perception that the people of  
 4 that village have a right to make physical use of the  
 5 lands?

6 A Yes, within the patterns of use-right  
 7 assignment, which are associated with the political  
 8 structure.

9 Q Does the conception of village claims to  
 10 lands also -- with it a perception of a right to exclude  
 11 others from that land, either conditionally or  
 12 unconditionally?

13 A Do you mean within the Third Mesa -- I mean  
 14 within, say -- let me see. Do you mean that within a  
 15 Third Mesa claim they would exclude Second Mesa usage?

16 Q That's correct. Maybe put it on a more  
 17 mundane level. Refer to the boundary between Second  
 18 Mesa and Third Mesa. From the Hopi perspective, would  
 19 a person from Third Mesa say that Second Mesa is not --  
 20 "People from Second Mesa are not entitled to use this  
 21 land without our permission"?

22 A Yes, that's -- that could be stated, yes.

23 Q And the same perspective would be held by

24 people from Second Mesa?

25 A Sure.

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1 Q That Third people should not use this land  
2 without permission?

3 A Sure, that's correct, yes. Again, given  
4 the fact that we're dealing with an overall political  
5 organism which is quite complex.

6 So, for example, if the Kikmongwi of Old  
7 Oraibi was to say, "Well, I do indeed have certain use  
8 rights in this area, because I'm -- I'm a Kikmongwi."  
9 Maybe that would be an exception to those  
10 circumstances; maybe it wouldn't. I really don't have  
11 sufficiently precise knowledge to be able to answer  
12 that absolutely.

13 Q Is the concept of village claims to  
14 particular geographic areas -- does that also carry over  
15 to First Mesa?

16 A So far as I know, yes, it does.

17 Q Do you know if there is a similar boundary  
18 required at between First Mesa and Second Mesa, as you  
19 have described First, Second, and Third Mesa?

20 A I think there probably was, but I don't  
21 remember that one nearly so well. And my recollection  
22 is that the availability, say, of agricultural land  
23 between First Mesa and Second Mesa was not so  
24 problematic, because the populations were relatively  
25 lower, the land areas were relatively higher than, say,

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1 between Second Mesa and Third Mesa. But, of course,  
2 there were divisions at First Mesa between the  
3 villages. Hano has different claims.

4 Q Dr. Whiteley, are there areas within the  
5 Tutskwa that are claimed by some villages but not by  
6 others?

7 A Well, again, that's a difficult question,  
8 because are we talking about the villages as wholes, or  
9 are we talking about the Kikmongwis of those villages  
10 as speakers for those villages?

11 In a sense, I suppose one could say, all  
12 right, hypothetically, "Let's take the Kikmongwi of  
13 Walpi, the Kikmongwi of Shongopavi, and the Kikmongwi  
14 of Oraibi, sit them down, and they would say, 'Well, we  
15 all claim this whole Tutskwa together.'"

16 In practice, if you take Joe Blow from  
17 Walpi and Joe Blow from Oraibi, those two individuals  
18 might say, "Well, you know, our lands, our village  
19 lands, are from Walpi in the east," their village lands  
20 are in the west, and, therefore, you could have a  
21 division along that line.

22 Q Perhaps I should break this down. When  
23 you're talking about a village -- villages having rights  
24 over different areas, are you speaking of villages, or  
25 are you talking the larger reference being the three

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1 mesas?

2 A I think both, yeah, both.

3 Q So I take it there would be -- for example,  
4 in First Mesa, I think as you mentioned, there would be  
5 claims Hano would make, and they would not be the same  
6 as Walpi necessarily?

7 A Right.

8 Q And then there would be a more generalized

9 First Mesa ownership?

10 A Right.

11 Q Do village claims ever overlap?

12 A Yes.

13 Q Are there at times disputes between  
14 villages as to who is entitled to include that land --

15 A Yes.

16 Q -- as being owned by the village?  
17 I believe in your book that you do refer  
18 to a modern instance where -- between Bacavi and  
19 Hotevilla.

20 A Yes.

21 Q You referred earlier to a boundary line  
22 between Second Mesa and First Mesa.

23 A And Third Mesa.

24 Q I'm sorry, between Second Mesa and Third  
25 Mesa. Was that an agreed-upon line, or was there some

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1 disagreement as to exactly where that line was supposed  
2 to go?

3 A I don't recollect that with sufficient  
4 certainty, but I think there was at least one point  
5 where that line which was marked by particular  
6 stones -- and there is, I believe, a stone which had a  
7 carving of or a drawing of Maasaw, M-a-a-s-a-w, on  
8 it -- was agreed upon, but I -- but I think there have been  
9 circumstances -- this is the one between Second and Third  
10 Mesa -- where those agreements have not always held up.

11 Q Dr. Whiteley, was there a dispute or a  
12 disagreement about the site where Kykotsmovi -- was there  
13 a Second Mesa-claim to that area?

14 A I'm having trouble thinking about what  
15 would be the background for that question. If you can  
16 ask me a question which would cite a source or a  
17 particular point, I might be able to answer that.

18 Q Fair enough. I'm afraid it may be buried  
19 in my outline, and so let me come to it --

20 A Okay.

21 Q -- and we can cover it. And, again, this  
22 is to try to help me try to conceptualize what you're  
23 saying. Was there a Second Mesa claim to the Moencopi  
24 area? Was or is.

25 A I seem to recall that there were different

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1 claims from the different Second Mesa villages,  
2 especially from Shongopavi and Mishongnovi, at least  
3 one of which would include the Moencopi area, both of  
4 them, but I can't remember exactly, for certain  
5 purposes, I e. their claims would be for certain  
6 purposes.

7 Q For example, eagle gathering?

8 A Possibly eagle gathering, yeah, yeah.

9 Q In those circumstances in which village  
10 claims overlap, are the overlapping claims necessarily  
11 incompatible?

12 A I don't think so. And, again, this gets  
13 us back to the complexities of Hopi social structure.  
14 I think the way that some of those claims -- at least  
15 some of those overlapping claims from different mesas  
16 were is by virtue of the fact that you're talking about  
17 the same clans on different mesas.

18 So that in that case, maybe the  
19 appropriate unit to be talking about with respect to

20 access to eagle-gathering areas, say around Moencopi,  
 21 would be the clan, rather than the village.  
 22 Q Well, related to that, do clans have the  
 23 same eagle-gathering areas from village to village?  
 24 For example, would a person of the Water Coyote or Fox  
 25 clan at Moencopi have the same eagle-gathering area as,

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1 say, someone from that clan who lives in Mishongnovi?  
 2 A I honestly don't know the answer to that  
 3 question. I think in some cases they would have the  
 4 same areas which they could go and hunt -- gather eagles  
 5 from. In other cases, they might be different and  
 6 specified as different.

7 Some clans, in their relationships between  
 8 mesas, between villages, are much more unitary, if you  
 9 will -- maybe that's the wrong word -- much more -- much  
 10 closer than other -- than other clans which are  
 11 identified as having the same names between mesas and  
 12 between villages.

13 Q So I take it the answer simply isn't  
 14 clear, any different from clan to clan?

15 A Yes, that's a fair enough answer.

16 Q Now, Dr. Whiteley, there have been several  
 17 Hopi villages which have been founded in this century  
 18 or in the last century. Again, referring to village  
 19 claims, are the claims of these more recent villages a  
 20 derivative of the village claims of the place where its  
 21 founders came from?

22 A Yes.

23 Q So I take it that in the case of a Bacavi,  
 24 would it consider its village name to be a derivative  
 25 of that of Oraibi?

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1 A No, or at least not totally. To be -- to be  
 2 honest, I don't know much about Bacavi eagle-gathering  
 3 areas. I think they would -- as I have indicated before,  
 4 in none of the time that I have spent at Bacavi have  
 5 people been gathering eagles. But when they used to  
 6 gather eagles, I am sure -- or I'm not sure, but it's my  
 7 best guess that they would have taken those rights to  
 8 areas from previously existing rights from Old Oraibi.

9 In terms of agricultural lands, maybe in  
 10 terms of some herding areas, there were decisions which  
 11 segregated Oraibi from Bacavi and from Hotevilla for  
 12 certain purposes. There was some decisions which were  
 13 never agreed upon where disputes remained and still  
 14 remain about rights in certain areas. Again, you know  
 15 my book.

16 There are clear disputes between Bacavi  
 17 and Hotevilla. There are still disputes between Oraibi  
 18 and Bacavi, Oraibi and Hotevilla. These arise from the  
 19 split of Old Oraibi.

20 Q Well, there is one village that was left  
 21 out in that description, and that is of Moencopi.

22 A Um-hum.

23 Q Now, for obviously historical reasons,  
 24 it's understandable there would be certain  
 25 disagreements between Hotevilla, Bacavi, and Old

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1 Oraibi. Are the village claims -- are you familiar with  
 2 the village claims of Moencopi?

3 A I am not sufficiently familiar with them,  
 4 no; depending upon what you're going to ask, but in a

5 general sense, no.

6 (Interruption by telephone.)

7 Mr. Rogers: Off the record.

8 (Discussion off the record.)

9 Q (By Mr. Rogers) Well, Dr. Whiteley, what  
10 I was trying to get at, is the gathering areas for the  
11 people of Moencopi the same as the clan areas for the  
12 people of Oraibi?

13 A The Eagle clan gathering areas?

14 Q Yes.

15 A I'm -- I'm really speculating, but I think  
16 that would probably be true.

17 Q Dr. Whiteley, was Moencopi, or the area  
18 where Moencopi is located, part of the traditional  
19 village claim of Old Oraibi? From the Hopi  
20 perspective, was it considered to be part of the -- or at  
21 least from the perspective of those people in Old  
22 Oraibi -- as part of the lands that were claimed by  
23 Oraibi?

24 A In general terms, yes. It was also part  
25 of a claim which was more specifically associated with

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1 particular clans.

2 Q By clans on Third Mesa or --

3 A By clans on Third Mesa. But, of course,  
4 some of those clans have representatives on other mesas  
5 too.

6 Q To your knowledge, were there clan claims  
7 made to the Moencopi area from First Mesa?

8 A I'm trying to recall clan migration  
9 traditions. Certainly some of the clans at Old Oraibi,  
10 which claimed specific rights in Moencopi, in the  
11 immediate Moencopi area and in the surrounding area,  
12 namely the Snake and the Spider clans, are  
13 representatives at First Mesa, and their patterns of  
14 migration from the Third Mesa perspective are also in  
15 some respects identical with the patterns from a First  
16 Mesa perspective.

17 what I mean is that Snake and Spider both  
18 went up the Colorado River to Tokoonavi and build  
19 villages in the very general area -- I'm not saying  
20 actually on top of Navajo Mountain or whatever -- and  
21 then they went back down the river, or else they  
22 went -- in the case of some clans -- went further -- actually  
23 up the San Juan before coming into the more recently  
24 known Hopi villages.

25 what I'm suggesting is, if those

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1 traditions, at least in part, are identical between  
2 First Mesa and Third Mesa, Spider and Snake clans, then  
3 I would imagine, yes, First Mesa -- those First Mesa  
4 clans would also claim the Moencopi area. But I can't  
5 be sure about that. I am speculating.

6 Q Dr. Whiteley, are village claims, as we  
7 have been discussing here, distinct from clan claims?

8 A In some respects, yes. In other respects,  
9 no.

10 Q In what respects are they distinct?

11 A I think generally in terms of  
12 apportionment of agricultural land, for example, maybe  
13 in certain cases an apportionment of herding  
14 territories. But, again, it's very difficult to give a  
15 definite answer to that question.

16 Say I'm a member of the Snake clan at  
 17 First Mesa, and my clan has certain areas below Walpi  
 18 where people from my clan have always had farming  
 19 rights.

20 Say somebody, a Snake clan man from  
 21 Oraibi, from Hotevilla, marries somebody from Walpi,  
 22 not of the Snake clan, but goes to live with his wife  
 23 in Walpi and has to farm for her. Is he gonna go back  
 24 and farm at Hotevilla, or is he gonna farm in the First  
 25 Mesa area? Well, these days maybe he would do both,

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1 'cause he would probably have a pickup truck. But the  
 2 likelihood is quite strong that he would actually farm  
 3 in the First Mesa area too.

4 I imagine it would be quite likely that  
 5 his Snake clan relatives at First Mesa would say,  
 6 "well, why don't you come and farm in our Snake clan  
 7 plot?" So even in that case, it becomes very difficult  
 8 to make definitive distinctions between clan and  
 9 village holdings.

10 Q And on the example that you gave, the  
 11 person from Third Mesa would have use rights which  
 12 would be attributable to the village claim of Oraibi,  
 13 and also have distinct use rights attributable to his  
 14 clan affiliation, the Snake clan, First Mesa?

15 A Yes, hypothetically.

16 Q To your knowledge, does Moencopi have a  
 17 village claim which is distinct from the area  
 18 traditionally claimed by Oraibi?

19 A May I ask you: Distinct in what sense?

20 Q Well, if I understood your answers  
 21 correctly, take our hypothetical person from Third  
 22 Mesa, from Oraibi, that he or she would have a  
 23 conception of certain lands being claimed by Oraibi,  
 24 being able to derive certain use rights from that  
 25 claim.

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1 A Um-hum.

2 Q Let me pose that we have a hypothetical  
 3 person at Moencopi. Would his conception of a village  
 4 claim be tied to that of the mother village, Oraibi, or  
 5 would there be a unique conception of the village claim  
 6 deriving at Moencopi?

7 A Given that, again, this is very complex, I  
 8 think both. For example, if there are individuals from  
 9 Moencopi who have been farming a certain area since the  
 10 19th century, I can't imagine that they wouldn't  
 11 protest vehemently if sometimes -- if any old Tom, Dick  
 12 or Harry came from Old Oraibi and said, "well, this is  
 13 an Old Oraibi area, so I'm going to start planting in  
 14 your field." I'm sure that that would cause great  
 15 disputes.

16 So I think it has to be -- you know, we have  
 17 to keep in mind the complexities of access and use to  
 18 land for different purposes.

19 Q Dr. Whiteley, I think in your book,  
 20 Deliberate Acts, you refer to an event that occurred in  
 21 the 1890s, prior to the split, where a group of people  
 22 who were identified as part of the hostile faction came  
 23 to Moencopi and planted wheat.

24 A That's correct.

25 Q Do you recall that?

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A Yes.

Q Was that an exercise of clan rights?

A That's the way that I think Williams reports it, yes. And also Voth reports it in -- he doesn't report the specific events, but he does report there being a conflict between some clans which claimed the area from ancient right and some people who were apparently farming there at that time. That's in Voth's Traditions of the Hopi.

Q I take it in that instance that there were -- well, were there people at Oraibi or Moencopi who had conflicting rights with respect to the land that was used?

A There was clearly a dispute of some kind. It seems also to have involved the Mormons.

Q Was it an example of a disagreement among clans, as to who had use rights in a particular agricultural area, or was it an instance of where clan rights might conflict with village use rights?

A Are we calling Moencopi a village in 1894?

Q Well, I was thinking more of Oraibi as the reference.

A Oh. I don't think so really. I think it's -- it's really a conflict between certain members of Oraibi, between certain members of clans in Oraibi and other members of clans in Oraibi. In other words -- again, it's very difficult to be certain about what the nature of this dispute was.

A Basically what we have is a couple, and to my knowledge only a couple of reports by outside observers. Maybe there's more in some of Voth's work than I know of, but to my knowledge, what we know about it is really very limited.

A And you can't always rely on what, you know, a soldier is going to say about matters of complex cultural order. But what we understand about it from those, I think, is that it's a dispute between different clan members as to the appropriate usage of parts of Moencopi area.

Q Now, earlier you mentioned that the Kikmongwi of a village has certain rights to a portion of lands. Is the -- does the Kikmongwi have use rights on lands which is distinct from the village claim?

A Yes, I think so, in the sense that, for example, I have heard that Sekaquaptewa has Kikmongwi, could say that all of the Tutskwa belonged to him, or maybe all of a very large portion of the Tutskwa belonged to him, I e. in Hopi words which roughly approximate with that in English. In that sense, he would be specifying some sort of right which actually transcended the rights of other Oraibi village members.

Q And so that if he described Oraibi's village claim, that would be a different area? Or would he draw a distinction?

A I think you're asking me to speculate too far than I -- than I can speculate at this point.

Q Fair enough. Dr. Whiteley, again I'm going to try to focus on the concept of the Tutskwa from the Hopi perspective. From the Hopi perspective,

12 do the Hopis believe that they should have exclusive  
13 use rights to the Tutskwa?

14 A Some Hopis do; others don't.

15 Q Well, I take it that at least some Hopis  
16 believe that other people should be permitted to stay  
17 within the Tutskwa, should have use rights within the  
18 Tutskwa?

19 A Under conditions that -- under certain  
20 conditions, yes, that's true.

21 Q And what conditions are those?

22 A Conditions which have to do with  
23 traditional authority of -- of -- authorities of the Hopi  
24 society. For example, one way of talking about this is  
25 that all those people should -- should become Hopis,

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1 should be under the authority of the Kikmongwis.

2 Q Are there other conditions?

3 A That they agree to the authority of  
4 those -- of those officials.

5 Q Dr. Whiteley, if I understand your answer,  
6 there are other Hopis who believe that all other  
7 peoples aside from the Hopi should be removed from the  
8 Tutskwa?

9 A The way I answered that question was  
10 designed sort of to encompass a variety of positions  
11 which I believe have existed through time. I am not  
12 sure that I could say with certainty that today there  
13 are some Hopis who would absolutely demand that all  
14 non-hopis be relocated from the Tutskwa.

15 I think there may have been an idea, on  
16 the part of some Hopis in the past, maybe 50 years ago,  
17 maybe 100 years ago or whatever, that that should  
18 indeed be the case. But this is very vague, and I  
19 can't really come up with a more precise answer to that  
20 question.

21 Q Well, is it fair to say that there is no  
22 consensus among the Hopi as to whether the Hopi should  
23 have exclusive use rights to the Tutskwa?

24 A Can you break that down, that question,  
25 into particular areas of the Tutskwa?

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1 Q Well, let me ask you this: Do Hopis draw  
2 a distinction between different areas within the  
3 Tutskwa as to whether they should have exclusive rights  
4 or not?

5 A I think we've established that at least in  
6 part with reference to these clan eagle-gathering  
7 areas.

8 Q Well, let's start with those. Is there a  
9 consensus among the Hopi as to whether the Hopis should  
10 have exclusive use rights to those areas that the clans  
11 recognize as eagle-gathering areas?

12 Ms. Sprague: Mr. Rogers, I object to the  
13 word "consensus" without some specification. Are you  
14 referring to 51 percent, or some greater amount of  
15 agreement?

16 Q (By Mr. Rogers) Well, I realize we were  
17 in a little bit of difficult area, but one of the  
18 points that you make I think very well in your book,  
19 Deliberate Acts, and I think it comes out in your  
20 report as well, that one point of fact which should be  
21 considered is looking at things from the Hopi point of  
22 view.

23 Now, I understand the Hopis are a diverse  
 24 people, and that as with any cultural group, they are  
 25 going to be saying some things for which they're -- you

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1 can say -- well, with some possible exceptions -- that  
 2 there is a Hopi viewpoint or, let's say, an Anglo  
 3 viewpoint or a Navajo viewpoint. For other things,  
 4 there may not be that kind of unanimity or consensus or  
 5 something when you can say something is unique; you  
 6 have to conclude that there are different views, and  
 7 they are not necessarily compatible with one another.  
 8 And the reason for this line of inquiry is to try to  
 9 disaggregate which aspects are essential to the concept  
 10 of the Tutskswa and what exactly it means.

11 I can provide you with a percentage, but  
 12 I'm not sure that would be very meaningful. I  
 13 certainly don't mean by a 51 percent majority; and by  
 14 consensus, I don't mean 100 percent.

15 But at some point I think you reach a  
 16 threshold when you can make a generalization about the  
 17 way a certain culture or certain people look at the  
 18 world.

19 And with all that preface, I forgot my  
 20 question.

21 Q (By Mr. Rogers) With respect to the  
 22 eagle-gathering areas, is there a consensus among the  
 23 Hopi that eagle-gathering areas should be used  
 24 exclusively by those clans that have designated them as  
 25 their gathering areas?

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1 A It's a historically contingent situation.  
 2 I think that traditionally in Hopi culture it was  
 3 anathema to suggest that nobody should be able to use  
 4 some land which was being used or being claimed by a  
 5 clan or a village if that would prevent them from  
 6 staying alive.

7 For example, the way one of my consultants  
 8 answered one of my questions is that when a Hopi plants  
 9 a peach tree, it's to be expected that others who did  
 10 not plant the tree and don't tend the tree and so forth  
 11 will come along once in a while and take a few peaches,  
 12 take a peach; and this is how it should be, as long as  
 13 they don't deprive the individual who planted the tree  
 14 and continues to tend it of the bulk of its resources,  
 15 which continue to rest in the, quotes, ownership of  
 16 that individual.

17 In that sense, I think it's fair to say  
 18 that "traditionally" the Hopi view is that clans which  
 19 have certain eagle-gathering areas would not and could  
 20 not exclude all sorts of access, resource use, in those  
 21 areas by other people, be they other Hopis, be they  
 22 perhaps Navajos, be they Paiutes, be they Havasupais,  
 23 et cetera.

24 So the historical -- the historically  
 25 important context comes when Hopis feel that their

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1 prior rights, their traditional rights -- say the rights  
 2 of a particular clan to a particular eagle-gathering  
 3 area -- have been usurped and prevented in practice, say  
 4 by Navajos. In that case, with that historical  
 5 contingency, I think there are indeed some Hopis who  
 6 would say, "Yes, we have to have exclusive access to  
 7 those areas because this has happened."

8 I think there are other Hopis who  
 9 emphasize the traditional values, that ultimately no  
 10 human being can own the land. Maasaw is taking care of  
 11 the land on behalf of the creator, on behalf of  
 12 Sootukwnangw. Maasaw is M-a-a-s-a-w. Sootukwnangw is  
 13 S-o-o-t-u-k-w-n-a-n-g-w. Those Hopis who have  
 14 emphasized that viewpoint on land use are certainly  
 15 referring to an orthodox interpretation of Hopi views  
 16 of the land.

17 Maybe that's all I need to say.

18 Q Dr. Whiteley, turning to what you made  
 19 about trying to break this down, is there a hierarchy  
 20 of different areas that affects the judgment from the  
 21 Hopi point of view as to whether exclusive rights,  
 22 exclusive use rights, are important? You mentioned  
 23 that, for example, eagle-gathering areas, they might be  
 24 of particular concern concerning having rights to  
 25 access and wanting to control others' access to those

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1 areas. Are there other types of areas, aside from  
 2 eagle-gathering areas, which are of the same  
 3 importance?

4 A I think their importance becomes  
 5 equivalent no matter what kind of usage we're talking  
 6 about -- gathering plants, gathering fuelwood, et  
 7 cetera -- when access is prevented.

8 In other words, if you go to an area which  
 9 your society's traditions has told you that you've  
 10 always had rights to use this area for that purpose,  
 11 and somebody comes along and says, "Get out of here,"  
 12 then it becomes important.

13 Q Is the concept of the Tutskwa tied in some  
 14 respects to the Hopi migration myths or stories?

15 A Yes.

16 Q I know later in your report, Dr. Whiteley,  
 17 you describe physical use that was made of the Tutskwa,  
 18 both from prehistoric times and contemporary times. Is  
 19 contemporary physical use of these lands central to the  
 20 concept of the Tutskwa, from the Hopi point of view?

21 A Yes, it is. But, again, without wishing  
 22 to muddy the waters at all, the very concept of  
 23 physical use depends upon a certain metaphysics; and  
 24 whether that is clearly translatable from  
 25 Euro-american, western metaphysics into Hopi is -- is a

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1 moot question.

2 So that there are interests which are more  
 3 than physical, as well as interests which are  
 4 physical.

5 Q Well, I think I understand your answer,  
 6 but from the Hopi viewpoint, does it make any  
 7 difference whether a boundary area or a particular  
 8 landmark on that area has been subject to physical use,  
 9 such as grazing or farming, during contemporary times?

10 Ms. Sprague: Mr. Rogers, could you define  
 11 "contemporary" with some greater specificity?

12 Mr. Rogers: Sure.

13 Q (By Mr. Rogers) During the 20th Century.

14 A Hopis have very long memories. If we just  
 15 take the example of village lands in the immediate  
 16 vicinity of a village, village agricultural lands,  
 17 maybe somebody wouldn't plant in a particular area for  
 18 60 years. They would die.

19 Their son or maybe their nephew would come  
 20 along and say, "well, the soil has again become  
 21 appropriate to plant in. I'm gonna go back there and  
 22 plant." Or maybe if we were to take a more outlying  
 23 area, perhaps the incidence of a certain species would  
 24 diminish.

25 So if you wanted to go to, I don't know,

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1 white Mesa to gather some kind of a plant, maybe, for  
 2 whatever ecological conditions, that plant would cease  
 3 to be there for a period of 60 years.

4 As soon as it became -- the conditions  
 5 became such that it appeared again, then you would go  
 6 back and you -- yes, we would know that there is -- one of  
 7 our traditions which says that that plant occurs  
 8 there. Lo and behold, we learned that plant has come  
 9 back there, as it's supposed to be, and we can go and  
 10 collect it again.

11 Q If I understand your answer correctly,  
 12 then, the concept of use rights within the Tutskwa is  
 13 not contingent upon continuous physical use?

14 A Can you define "continuous"?

15 Q Certainly. When there is no lapse of time  
 16 in between uses. And for an order of magnitude, pick  
 17 50 years or 60 years, as you said.

18 A Within the constraints that you have  
 19 placed upon that, which sort of suggest a -- I don't  
 20 know -- a more microtemporal time, a 50-year period,  
 21 then, yes, I would have to agree that it wouldn't have  
 22 to be continuous.

23 But if you made a definition of continuous  
 24 which was more macrotemporal -- I apologize for these  
 25 terms, but I think you know what I mean --

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1 Q Yes.

2 A -- then you could say that it was  
 3 continuous, if you had people using this area and -- if  
 4 you could specify it -- in 1350 and 1400 and 1450 and  
 5 every 50-year period or a 60-year period, then you  
 6 could say that that was, in fact, continuous, even  
 7 though you might get 50-year periods when nobody went  
 8 there.

9 Q Dr. Whiteley, I don't want to get hung up  
 10 on the word "continuous," and -- so I understand our own  
 11 culture, Western culture, use rights or periods of  
 12 nonuse -- in a physical way, is what you're saying that  
 13 among the Hopi -- the Hopi point of view, use rights do  
 14 not diminish from periods of nonuse?

15 A Are you sure that that is our Western  
 16 conception of use rights? I mean, it seems to me, for  
 17 example, that if my -- assuming I was an American, which  
 18 I'm not -- if my great, great, great grandfather, who  
 19 owned 300 acres in Virginia, passed those acres down  
 20 to -- all along the line to me, and nobody had actually  
 21 been there, I would -- I would own the land, wouldn't I

22 Q Except for instances of adverse  
 23 possession. And I guess what I'm fishing for -- well,  
 24 what I'm trying to find out is if -- from the Hopi point  
 25 of view -- if a Hopi can tie his clan rights or his

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1 village rights or other types of rights which are  
 2 personal to him to some past use of a particular area  
 3 by his village or clan, at least from his point of view

4 those use rights are the same, whether the physical use  
5 has last been made a year ago or a hundred years ago?

6 A For certain purposes, I think that would  
7 be true. But, again, I think you have the same  
8 patterns in village agricultural lands in the immediate  
9 vicinity of a village, as you have described -- at least  
10 in some cases -- as you have described for Western use.

11 I certainly have heard Hopis say, "well,  
12 you know, any piece of land is really only yours so  
13 long as you use it." They were talking about  
14 agricultural land. And if you quit using it, at some  
15 points really somebody else should have a right to use  
16 it.

17 But these are not concepts which are  
18 encoded in any system of laws like they might be in  
19 Western society, so this is one of the subjects that is  
20 disputed between Hopis quite a lot.

21 One assumes that it's probably always been  
22 that way. This is why you have such officials as  
23 Aitmongwis and others who are going to try to  
24 adjudicate those disputes.

25 In other words, say there is a general

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1 concept. All right. Well, if you don't use a piece of  
2 agricultural land for 100 years, it should perhaps be  
3 able to be used by somebody else. If you used it  
4 10 years ago, but you haven't used it since, it's still  
5 really you have the most say over who gets to use it.  
6 Say that's a general concept.

7 Well, between 10 years and 100 years is an  
8 awful long time, and there is an awful lot of room for  
9 contention and dispute. And, again, in a society  
10 without a written codification of laws, traditionally  
11 this sort of thing has to be hammered out, and that's  
12 one of the functions that sociopolitical leaders  
13 serve.

14 Q You mentioned that traditionally the  
15 Kikmongwis would adjudicate land disputes.

16 A In some instances.

17 Q Were there other people within a village  
18 who had that responsibility or had that authority?

19 A I think, without being certain, certainly  
20 clan leaders. And since they would very often  
21 simultaneously be ritual sodality leaders, they would  
22 have significant say in this, but also you would have  
23 to say any elders of particular clans, or even any  
24 clans who were deemed to have knowledge of what was  
25 going on in a particular area, you know; in other

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1 words, if you met a guy who has farmed all of his life  
2 next-door to an area that there is a dispute going on  
3 about, if he is a normally intelligent guy, then he is  
4 going to have opinions about, you know, who is right  
5 and who is wrong.

6 So I think there were -- you're dealing  
7 with -- this isn't the time for an anthropology  
8 excursion, but you're dealing with a society where  
9 everybody knows each other very, very well, and there's  
10 quite a lot of respect for other individuals'  
11 knowledge, if it's real knowledge, so that, well, if we  
12 wanted to find out about this situation, we would go  
13 and ask so-and-so, 'cause we know he was there, and  
14 he's more likely to have a reliable opinion about it.

15 Q Dr. Whiteley, are clan leaders, from the  
16 Hopi point of view, generally considered to be the  
17 people who are the final arbiters of what is and is not  
18 clan land?

19 A Yes, in that when you use the term "clan  
20 leaders" that also includes the Kikmongwi.

21 Q Well, the Kikmongwi, for example, at  
22 Oraibi would be a member of the Bear clan.

23 A Right.

24 Q Would he also be the -- would the Hopis, say  
25 at Oraibi time of the split, part of this century,

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1 recognize the Kikmongwi as the most authoritative source  
2 of information as to some other clan, besides the Bear  
3 clans?

4 A I --

5 Q For example, the Spider clan.

6 A No, they indeed wouldn't, but they might  
7 also not necessarily recognize the individual who is  
8 the incumbent at the time at the position of -- former  
9 position of Kikmongwi as being the most knowledgeable  
10 clan leader in the Bear clan.

11 When I used the term "Kikmongwit"  
12 earlier, there is a -- there is a particular note that  
13 both appends to one of his -- one of his works on Oraibi  
14 religious practices -- I can't remember which one -- in  
15 which he uses this term specifically, and he says that  
16 all of the members of the -- all the older members,  
17 especially of the leading lineage segment which cross  
18 the Kikmongwi, are referred to as the Kikmongwit.  
19 That's the pluralization of Kikmongwi. In that sense,  
20 it's almost as if all of that group occupies the  
21 leading role for the clan and for the village.

22 Q And also for the societies?

23 A For the religious societies?

24 Q Yes.

25 A No, no, you couldn't say that, because

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1 it's the leading Mongwit of those religious societies  
2 who have the most significant authorities for those  
3 societies.

4 If you have a Kikmongwi who is initiated  
5 into the Wuwtsim society, maybe he's not even an  
6 officer in the Wuwtsim society, he is just a regular  
7 initiate, he is not going to notice as much as the  
8 Wuwtsimmongwi.

9 Q If I understand your answer right or  
10 correctly, then those people who traditionally the  
11 Hopis would recognize as being the most authoritative on  
12 issues of clan land ownership or areas or village areas  
13 would be the most properly classified in the group you  
14 have described as the Pavansinom?

15 A Yes.

16 Q And that group would not necessarily  
17 correspond with the clan leadership?

18 A Not necessarily.

19 Q It wouldn't necessarily align with  
20 society -- or leadership of the societies, the religious  
21 societies?

22 A Not necessarily, but within that category  
23 Pavansinom, it's -- probably it's most important  
24 constituent units would include clan leaders and --

25 Q And the Kikmongwi may or may not be part

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1 of that group?

2 A The Kikmongwi would always be part of that  
3 Pavansinom.

4 Q So I take it that at least -- if I  
5 understand what you're saying, if there were a dispute  
6 as to the precise location of spider clan lands, the  
7 Kikmongwi may or may not be the -- considered to be the  
8 most knowledgeable about those clans?

9 A The specific incumbent of the position of  
10 Kikmongwi at the time may not be. And, of course, I  
11 think one of the things you may be getting at is, that  
12 was precisely the course of dispute at Oraibi.

13 Shall we take a break?  
14 Q Yeah, why don't we he go ahead and take a  
15 break.

16 (A break was taken.)

17 Q Dr. Whiteley, I would like to return to  
18 the last sociopolitical unit that you referred to this  
19 morning, and that is the role of religious societies.  
20 Did the Hopis have a conception of society lands  
21 similar to what they have for village lands or clan  
22 lands?

23 A There are certain areas which societies  
24 have particular associations with which nonmembers of  
25 those societies and perhaps even nonleading members of

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1 those societies should stay away from. For example, on  
2 Third Mesa, the site known as Aboonivi,  
3 A-b-o-o-n-i-v-i, is associated with the Kwaakwant,  
4 K-w-a-a-k-w-a-n-t, which is the One-horn society.

5 If you are not a member of that society --  
6 and perhaps -- I don't know this for sure, but if you are  
7 not a leading member of that society, you should,  
8 generally speaking, stay out of that area. And if a  
9 member of that society hears about you being in that  
10 area or catches you in that area, you might be summoned  
11 before a meeting of that society and asked to explain  
12 what you were doing there.

13 It's also my understanding that some of  
14 these Eagle clan gathering -- I'm sorry -- eagle-gathering  
15 areas are specified by religious sodalities, as well as  
16 by clans; but, again, this becomes complex in the  
17 actual workings of social units in Hopi society, in  
18 that there are often very specific determining  
19 relationships between clans and religious societies.

20 The Snake clan at Third Mesa owns the  
21 Snake society, while ordinary members of the Snake  
22 society might come from any clan. The leading chief  
23 priests, Mongwit, M-o-n-g-w-i-t, should always be from  
24 the Rattlesnake clan.

25 Q For the areas from which societies dictate

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1 that other people stay away from these areas, are these  
2 considered shrines, religious shrines to these  
3 societies?

4 A I guess you could use the word shrines in  
5 that way, yes.

6 Q Well, do these areas have religious  
7 significance to the members of that society?

8 A They have significance to the members of  
9 that society. But, again, if you take into account  
10 some of the things that I have written as well as what

11 other people have written about these societies, these  
 12 societies are as much political, sociopolitical units  
 13 as they are religious units.

14 So if you were to say that the interests  
 15 of the One-horn society in Aboonivi is religious, I -- I  
 16 could assent to that, but I would also have to say that  
 17 it was -- it had other ramifications too.

18 Q Well, can you describe for me what  
 19 significance these areas have to the societies.

20 A I can't really, because they -- they vary so  
 21 much. I mean, the specific interests of the One-horn  
 22 society in that area are going to be different from the  
 23 interests of another society in another area.

24 Q Are some of these areas used for gathering  
 25 materials for use in ceremonies, sponsored by the

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1 societies?

2 A I believe so.

3 Q Are other uses made of these areas by  
 4 society members?

5 A Yes.

6 Q And what kinds of other uses?

7 A Well, again, without going into all the  
 8 practices of the religious societies -- which I certainly  
 9 don't pretend to know, and I don't think any non-hopi  
 10 would pretend to know, nor even any Hopi would pretend  
 11 to know all of those, because he wouldn't be initiated  
 12 into all the religious societies -- I think the only way  
 13 to do that is to deal with particular examples.

14 This site of Aboonivi, for example, was a  
 15 place to which, during a certain phase of wuwtsim  
 16 initiation -- wuwtsim, W-u-w-t-s-i-m -- more particularly  
 17 One-horn society initiation -- you understand that the  
 18 One-horn society is one of the four wuwtsim societies,  
 19 one of those societies is the wuwtsim society proper,  
 20 okay? -- new initiates would have to go out at night from  
 21 the kiva in Old Oraibi and make a trip to Aboonivi and  
 22 do certain things there, I think maybe deposit prayer  
 23 feathers there and do other things which probably  
 24 shouldn't even be talked about.

25 And so that would be one of the purposes

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1 that Aboonivi would serve for the -- for the Kwaakwant,  
 2 but that wouldn't be the only purpose which it would  
 3 serve for that society. I'm sure it had many other  
 4 things too which that society would do in reference to  
 5 it.

6 Q Are there any of these areas which are  
 7 deemed to be significant by more than one religious  
 8 society?

9 A Yes, I believe so.

10 Q And there would be other areas which would  
 11 be of significance to only one society?

12 A Yes.

13 Q And I take it for these areas that there  
 14 is a taboo or a cultural taboo against people who are  
 15 not members of that society making use of that area?

16 A Yes.

17 Q And what prompts that cultural restriction  
 18 against -- or access?

19 A The recognition of the authority of those  
 20 religious sodalities.

21 Q Dr. Whiteley, is it tied up with ritual

22 secrecy?

23 A In some respects, yes; in others, no. In  
24 other words, for example, back to this one case, what  
25 actually goes on at Aboonivi is secret from most

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1 people.

2 The fact that you should stay away from  
3 there if you are not a member of the One-horn  
4 society -- Kwaanitaqa is K-w-a-a-n-i-t-a-q-a -- that's not  
5 secret; otherwise, you would obviously trespass over  
6 the area.

7 Q Well, what reason do the societies have to  
8 exclude other people from gaining access to these  
9 areas?

10 A I think that's an area where you get into  
11 ritual secrecy.

12 Q That if access were allowed by people who  
13 are not members of those societies, they may blasphemy  
14 the -- well, strike that -- or just it might uncover some  
15 of the ritual secrets which, according to Hopis, should  
16 not be disclosed?

17 A Well, ritual secrecy is about power. I  
18 mean, it's about devices which are associated with  
19 power in Hopi belief. So it wouldn't only be that they  
20 would be disclosing the ritual secrets, but they would  
21 be interfering with some very powerful stuff which  
22 could wreak all sorts of havoc.

23 Q I take it it's very much in a person's  
24 interest, if they are not a member of that society, to  
25 stay away?

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1 A Absolutely.

2 Q Dr. Whiteley, on the first page of your  
3 Hopitutskwa report, in the footnote you note that  
4 Hopitutskwa means "Hopi land." Is that a literal  
5 translation? Does Tutskwa translate literally as  
6 land?

7 A I think Tutskwa translates literally as  
8 this area that we're talking about every time we say  
9 the Tutskwa. But if we say, well, is there a general  
10 concept of land which, you know, you can separate from  
11 the Tutskwa, I think you would probably have to specify  
12 more exactly what it is.

13 So if you're going to talk about a field,  
14 then you would use the term Baasa, B-a-a-s-a, and in  
15 that sense you would be talking about a bit of land,  
16 and you would not use Tutskwa in that context.

17 Q So literally translated would be referring  
18 to a large area?

19 A Yes, the area that's specified in this  
20 report and others.

21 Q Dr. Whiteley, I'm not assuming that you  
22 are an expert in the Hopi language, but is the word  
23 Tutskwa used in Hopi to refer to an area of land other  
24 than the subject of your report, which you describe as  
25 Hopitutskwa? Can it refer to any large area of land,

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1 for example?

2 A My knowledge of Hopi -- the Hopi language is  
3 insufficient to answer that question.

4 Q Dr. Whiteley, I would like to move on to  
5 the description that you have described on pages 4  
6 through 6 of your report, Exhibit No. 1, of the

7 Tutskwa, and in the first full paragraph on that page  
8 you refer to two publications by Jack and Susanne Page,  
9 do you not?

10 A Yes, Jake.

11 (At this time, Ms. Bogan left the  
12 deposition room.)

13 Q I would like to mark as Exhibit No. 12 an  
14 excerpt from a book entitled Hopi by Susanne and Jake  
15 Page, copyrighted 1982, and attached to Exhibit No. 12  
16 are pages 205 through, I believe, 239.

17 (Whiteley Deposition Exhibit 12 was  
18 marked.)

19 Q Dr. Whiteley, I would like to mark as  
20 Exhibit 13 an excerpt from the November 1982 issue of  
21 National Geographic, pages 606 through 629. It's an  
22 article entitled Inside the Sacred Hopi Homeland by  
23 Jake Page, and indicates photographs by Susanne Page.

24 (Whiteley Deposition Exhibit 13 was  
25 marked.)

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1 (At this time, Ms. Bogan reentered the  
2 deposition room.)

3 Q Dr. Whiteley, on page 4 of your report,  
4 Exhibit No. 1, you state that the Pages "have  
5 documented the Tutskwa boundaries the most clearly in  
6 recent years."

7 A "Perhaps the most."

8 Q Or "perhaps the most clearly." And you do  
9 make a reference to two sources by the Pages. Are  
10 those sources Exhibits 12 and 13?

11 A They are.

12 Q I take it -- well, Dr. Whiteley, the Pages,  
13 Susanne and Jake Page, are not anthropologists, are  
14 they?

15 A No, they're not.

16 Q They're freelance journalists?

17 A Yes, they are.

18 Q Based upon what you have read in these two  
19 sources or other information that you have acquired  
20 about the subject matter of the two articles, do you  
21 know if the project that they describe in the articles  
22 was sponsored by the Hopi Tribe?

23 A I don't know for sure. I know that  
24 certainly they had a great deal of sponsorship of one  
25 kind or another by the tribal chairman at that time,

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1 Abbott Sequaptewa.

2 Q Do you know if any anthropologists were  
3 involved in the pilgrimage that they described?

4 A I'm pretty certain that none were.

5 Q Do you know why no anthropologists were  
6 included?

7 A I don't really think there was a reason.  
8 The Hopis just wanted to have these -- or at least  
9 whoever was sponsoring it, whatever, wanted to have  
10 these places recorded by people who were good  
11 photographers, good journalists, who had access to some  
12 publication, I e. the National Geographic, which would  
13 have a considerably wider impact than the  
14 writings -- this is -- I'm just speculating -- than the  
15 writings that anthropologists ordinarily do.

16 Q Well, the two sources, Exhibits 12 and 13,  
17 describe a pilgrimage that the Pages went on,

18 accompanying certain Hopis to various landmarks around  
 19 what you have described as being the boundary of the  
 20 Tutskwa. Are such pilgrimages a part of the Hopi  
 21 tradition, to your knowledge?

22 A Yes, they are.

23 Q Do you know how often these pilgrimages  
 24 are made?

25 A I really don't. I don't think that

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1 they're every year, but I think they're probably every  
 2 few years.

3 Q Well, do you know if one has been made  
 4 since the publication of these two sources in 1982?

5 A No, I don't.

6 Q Do you know if any of these pilgrimages  
 7 took place during the 1930s?

8 A When you say "these pilgrimages," I mean,  
 9 I think that there were certainly pilgrimages to  
 10 certain outlying areas of the Tutskwa in the 1930s.  
 11 One of the associated contexts of pilgrimages in  
 12 general is wuwtsim initiation. Certainly there were  
 13 wuwtsim initiations in the 1930s. Whether those  
 14 pilgrimages were identical with this one, I do not have  
 15 a way of knowing.

16 Q As part of the wuwtsim initiations during  
 17 the 1930s, or any other time period that you're  
 18 familiar with, was it the custom to go to each of the  
 19 places around the boundary of what they conceived as  
 20 being the Tutskwa, or are you referring just to a  
 21 pilgrimage to particular shrines?

22 A My knowledge is that there were  
 23 pilgrimages in connection with wuwtsim to certain  
 24 tribes, but my knowledge is not to be relied on in this  
 25 instance, because this is precisely the kind of stuff

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1 which is secret and which has been held secret for a  
 2 very, very long time.

3 Q Well, I take it the pilgrimage that the  
 4 Pages went along with was not secret?

5 A Well, it was secret in the sense that only  
 6 they were allowed to go on it, and they didn't -- and the  
 7 Hopis, I think, did explicitly -- if they didn't exclude  
 8 anthropologists, they certainly excluded anybody else  
 9 but the Pages from going along.

10 Q And they certainly excluded lawyers from  
 11 going along.

12 I guess what I was trying to drive at in  
 13 the previous question -- I can understand that as part of  
 14 initiation ceremonies or other types of activities  
 15 trips would be made to certain of the places you have  
 16 identified as marking on the boundary of the Tutskwa?

17 A I think that's true.

18 Q What the Pages seem to describe is an  
 19 effort made by people from Second Mesa and Third Mesa  
 20 to go to all the boundary markers or the outlying areas  
 21 on what they perceived to be the Tutskwa.

22 Q Do you know if similar pilgrimages were  
 23 made in the 1930s?

24 A I don't know.

25 Q Would a pilgrimage going around all the

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1 outlying areas of the Tutskwa be part of a secret  
 2 ritual?

3 A It might be, in the sense that probably  
4 only those individuals who were selected to visit those  
5 points would know exactly where they were going.

6 I think probably it would be the case that  
7 during such a pilgrimage a lot of people or several  
8 people who didn't go on it would know who they  
9 would -- they were in a general sense visiting such  
10 boundary shrines, but they might not know where exactly  
11 they were.

12 Q Are there, according to Hopi traditions,  
13 certain people within the village or clans or societies  
14 who are responsible for setting up and conducting such  
15 a pilgrimage around the boundaries of Tutskwa?

16 A Yes, I think that's probably true.

17 Q Do you know who they would be in terms of  
18 their official capacities within the village?

19 A They would -- again, without knowing -- they  
20 would have to be people who were selected by the most  
21 important authorities in the village, which would, in  
22 the first place, I think mean here the heads of  
23 religious sodalities. They would do the choosing.  
24 Maybe they would be the ones who would be chosen, by  
25 themselves, to go.

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1 Q To your knowledge, is there a particular  
2 Hopi religious society which would have  
3 responsibilities in connection with a pilgrimage around  
4 the outlying area of the Tutskwa? And, again, I'm  
5 trying to distinguish from, you know, individual trips  
6 to a particular shrine.

7 A To my knowledge, no; but, again, it's  
8 possible that that exists.

9 Q Do you know if any pilgrimages of the sort  
10 as described in Exhibits 12 and 13 were made from  
11 Oraibi during this century?

12 A I don't know.

13 Q Dr. Whiteley, have you yourself ever made  
14 such a pilgrimage? Earlier this morning you testified  
15 that you did go to some of the sites.

16 A I went to some of those sites in  
17 conjunction or at the lead of Harry Kewanimptewa. We  
18 were not -- he was not acting in any -- well, he was not  
19 acting in the same capacity as those leaders that the  
20 pilgrimage identified in the Pages' account. He wasn't  
21 acting in the same way as those leaders were.

22 What I'm trying to get at is that as an  
23 individual who had a great deal of knowledge of Hopi  
24 tradition, and the significance of those places, I  
25 can't really second-guess who was in his mind as he was

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1 taking me around those places; but I'm sure its  
2 significance was, to him, a great deal more than it was  
3 to me, or any other non-Hopi, but he wasn't acting in  
4 the same capacity as these leaders were.

5 Q Dr. Whiteley, in Exhibit No. 12, at page  
6 219, the Pages have a paragraph in the second column  
7 which states, "Ky westima was a place where Virgil's  
8 people had lived on their way to the Hopi mesas. It  
9 was also the place where some of his people were  
10 supposed to return after the split at Oraibi in 1906."

11 From that, does it suggest that the person  
12 Virgil was from Hotevilla and Bacavi, one of the two?

13 A Not necessarily. It suggests that some of

14 his clan relatives, who might have been from Hotevilla  
15 or Bacavi, were supposed to do that. The way it's  
16 phrased, it can sound like he's necessarily a resident  
17 of Hotevilla or Bacavi.

18 Q So is it a fair inference that he's from  
19 somewhere on Third Mesa?

20 A Yes.

21 Q Further down in the paragraph they relate,  
22 "All the other priests were from Second Mesa," and then  
23 it goes on.

24 I note from the article that there doesn't  
25 appear to be any representatives from First Mesa that

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1 accompany the Pages on this pilgrimage. Do you know if  
2 the people from First Mesa make pilgrimages around the  
3 boundaries of what they perceived the Hopitutskwa to  
4 be?

5 A I don't know.

6 Q I would like to now turn to some of the  
7 places that you've mentioned, and in hopes that it may  
8 help facilitate our discussions, I have -- I had blown up  
9 a map. Here it is. It appears from the National  
10 Geographic article which was marked as Exhibit, I  
11 believe, 13.

12 (Whiteley Deposition Exhibit 14 was  
13 marked.)

14 Q I've had marked as Exhibit No. 14 the map  
15 which appears on page 611 of Exhibit No. 13.  
16 Dr. Whiteley, turning to Exhibit No. 14, I note on the  
17 map that the -- that's included in the Pages' article,  
18 the National Geographic -- that they have identified many  
19 of the places which you refer to on pages 4, 5, and 6.

20 A Um-hum.

21 Q Are these locations accurately depicted on  
22 Exhibit No. 14, to the best of your knowledge?

23 A In general, yes, given what I said about  
24 Kawestima this morning, my interpretation of it or the  
25 interpretation that I have from my consultants would

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1 not be necessarily so definitive as to identify his  
2 Betatakin.

3 Q But that it would be somewhere in that  
4 area?

5 A Somewhere in that area, I guess, yes, if  
6 it's to be identified as a specific spot in the first  
7 place.

8 If you remember, when I'm going through  
9 this 4, 5, and 6 -- on pages 4, 5, and 6, I indicate that  
10 there are what I call synecdochic usages of place-name  
11 terms.

12 So we have Tokoonavi on Exhibit 14 as  
13 Navajo Mountain, pure and simple. Well, some Hopis  
14 would say that's just Tokoonavi. Others would say,  
15 well, there's a specific village which is, I think,  
16 located on the northeast side of Navajo Mountain  
17 proper, Peak Navajo Mountain, which is the actual  
18 Tokoonavi. Again, given these sorts of limitations, I  
19 think this depiction is pretty accurate.

20 Q Dr. Whiteley, why don't we start with  
21 Tokoonavi. That is the same area as Navajo Mountain?

22 A Yeah.

23 Q Yeah.

24 A Yeah.

25 Q And I want to make sure I understand what  
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1 you said before. Did the Hopis disagree as to what  
 2 feature marks the boundary at this point?

3 A I don't think that they disagree, but,  
 4 again, you've got different levels of precision and  
 5 knowledge; and since it is, in part, an unimportant  
 6 area religiously and mythologically and so forth, there  
 7 are certain individuals who have more knowledge of its  
 8 significance.

9 So if you find a Hopi who is not initiated  
 10 into the particular society or is not a member of the  
 11 particular clan that's associated with Navajo Mountain  
 12 area of traditions, then they might say, "Yeah, well,  
 13 Navajo Mountain is the point."

14 If you find somebody who is sufficiently  
 15 knowledgeable, they would say, "well, yes, in a general  
 16 sense that's the point; but if you want to get very  
 17 specific, you have to go to this particular ruin, and  
 18 that's the real Tokoonavi."

19 Q Okay. And you do refer to an old  
 20 village. I take it it is a ruin?

21 A I understand it is. I haven't been  
 22 there.

23 Q Do you know approximately where it's  
 24 located? You describe it in your report as being close  
 25 to the confluence of the Colorado and the San Juan.

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1 A Yes, that's what I understand.

2 Q Would that be somewhere east of Navajo  
 3 Mountain?

4 A Unless you can show me a map which marks  
 5 the rivers a little bit more precisely, I can't give  
 6 you a better answer, or I can't give you an answer. I  
 7 seem to recollect it's northeast.

8 Q well, Dr. Whiteley, I have several  
 9 different maps. Perhaps the easiest one to start with  
 10 is just the Triple A map, and you can see if that  
 11 helps.

12 A Okay.

13 Q The Usgs maps are certainly more specific,  
 14 but they're more cumbersome to use.

15 A Unfortunately, it doesn't go far north  
 16 enough.

17 Q Is it your understanding that this village  
 18 is located in Utah?

19 A Yes.

20 Q It's located to the -- to your  
 21 recollection -- to the northeast of Navajo Mountain?

22 A That's my recollection, but I might stand  
 23 corrected if I could see a map that was more precise.

24 Q What religious significance does this  
 25 place have?

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1 A I don't know really. Certainly in a  
 2 general sense the Tokoonavi area is associated with  
 3 traditions of the Snake clan and the Snake society and  
 4 the Flute clan from First Mesa.

5 They -- the Snake -- this is the place from  
 6 where the Snake ceremony is supposed to have been  
 7 introduced to Hopi. It's -- I mean to -- to the villages  
 8 on the modern mesas.

9 Q I'm sorry. I think I might have missed

10 part of your last answer. You were referring to the  
11 Flute society?

12 A The Flute clan at First Mesa. The  
13 tradition is that -- in brief -- that a boy from the  
14 village of Tokoonavi -- oh, I don't really -- I don't think  
15 there's much point in going into this really here.

16 But, anyway, he ended up marrying a Snake  
17 woman, and she brought or he brought the Snake ceremony  
18 into the village of Tokoonavi, and that was maintained  
19 whether those people from the Snake clan migrated from  
20 Tokoonavi to First Mesa in conjunction with the Flute  
21 clan. I think that's the way it goes.

22 Q Does the Flute clan have a different story  
23 concerning the area which is part of their migration --

24 A They probably do, but that -- that does  
25 pertain to First Mesa, and it's not -- that's not

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1 something that I know very well.

2 Q Do you know if any other clans attach  
3 special significance to this area?

4 A I think in a general way the spider clan  
5 does.

6 Q And, again, is that tied to their myth or  
7 the lore that they adhere to regarding to how they  
8 arrived at Hopi, part of the migration methods?

9 A Yes.

10 Q Are there other clans that attach  
11 significance to this area?

12 A I think, if I recall from various eagle -  
13 gathering maps that I've seen, that the Bear clan has  
14 their Bear -- their clan eagle-gathering area extends as  
15 far north as Tokoonavi.

16 Q Do you know if this area is featured in  
17 the Bear clan's migration myth or in any of the  
18 versions of that lore?

19 A I don't know.

20 Q Do you know of any other clans that attach  
21 special significance to this area?

22 A I don't know.

23 Q You mentioned the Snake clan and Flute  
24 clan, spider clan and the Bear clan. Do each of these  
25 clans include the area on Tokoonavi as part of their

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1 clan lands or clan claims?

2 A I think I can answer that by saying that  
3 those clans, to my knowledge, considered this to be an  
4 important area in their traditions. Some of those  
5 traditions are associated with claims to use rights of  
6 certain clans.

7 Q Well, do you know if -- you mentioned the  
8 Bear clan, to the best of your recollection, had eagle -  
9 gathering rights somewhere in that area. Do you know  
10 if the Snake clan has eagle-gathering rights in this  
11 area?

12 A I don't know.

13 Q How about for the Flute clan?

14 A I don't know.

15 Q Spider clan?

16 A I don't know. I sort of think it's likely  
17 that they -- from Third Mesa, anyway -- probably would,  
18 given their close association with the Bear clan in  
19 historic times.

20 Q Aside from eagle gathering, do you know of

21 any other use rights or types of use rights any of  
22 these clans claim or assert in this area?

23 A I'm sure there are certain sorts of  
24 visitations there for other purposes, to utilize  
25 resources which they would identify, but I don't know.

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1 Q Fair enough. Now, you also mentioned that  
2 this area was of significance to the Snake society. Is  
3 this one of the areas that you described earlier where  
4 certain societies designate areas, and everybody else  
5 is supposed to stay out of them? Is this one of these  
6 areas?

7 A I wasn't thinking of this area at that  
8 time. It's possible that there may be some  
9 restrictions on access which derive from the Snake  
10 society, but not -- not that I know of.

11 Q Do you know if the area of Tokoonavi is  
12 part of any of the claims of any of the villages?

13 A Given that I don't think it's principally  
14 a village claim, I think there may be more of a sense  
15 that Bear clan eagle-gathering rights which extend as  
16 far as Tokoonavi are probably more Third Mesa Bear clan  
17 claims than they might be Second Mesa Bear clan claims;  
18 not that that would necessarily be exclusive, but I  
19 think that's -- that's -- that's a good possibility.

20 Q Well, Dr. Whiteley, do you know if there  
21 are any First Mesa village claims made in this area, on  
22 Tokoonavi, or is that something you would link to Third  
23 Mesa? And I didn't mean to exclude Second Mesa.

24 A I'm sure there are some village claims  
25 from Walpi and its antecedent, Qotsaptuvela, which is

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1 Q-o-um-laut-t-s-a-p-t-u-v-e-l-a, which First Mesa people  
2 might characterize as precedent to those of other  
3 villages.

4 I think, if I have this right, that the  
5 generally accepted version of things is that the Snake  
6 ceremonies -- Snake ceremony was introduced to the other  
7 villages from First Mesa, but I may not be right about  
8 that.

9 Q Well, Dr. Whiteley, let me come at it this  
10 way: Are there Hopi villages which do not consider  
11 Tokoonavi as being part of their village claim?

12 A Well, in the way that we have already  
13 talked about village claims as being complicated and  
14 sort of intersecting in some instances with clan claims  
15 and with Hopi claims as a whole, I think that's a -- it's  
16 a very difficult question to answer.

17 Q Well, let's try that with clans.

18 A I guess --

19 Q Would there be clans that would not claim  
20 this area as being part of their clan land claims?

21 A I think so.

22 Q But you're not sure?

23 A I'm pretty sure.

24 Q Earlier this morning you had mentioned  
25 that some of the place names in Hopi perhaps take on a

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1 part of the language which has now been lost, that they  
2 are archaic forms of Hopi words. Is Tokoonavi one of  
3 those?

4 A As I understand it, I think it is, or it's  
5 either an archaic form or else it's the -- it's a form

6 which reflects a process through time of illusion of  
7 morphemes. In other words, maybe originally it was a  
8 longer word, and it just kind of got shortened as  
9 people pronounced it over a few hundred years.

10 Q Based upon your research, have you been  
11 able to uncover the original meaning of the word or an  
12 earlier meaning of the word?

13 A No. I'm pretty happy that the word does  
14 mean black mountain, because this conforms with what I  
15 was told last August from Hopi consultants, and it  
16 conforms with the interpretations or published versions  
17 of such anthropologists as Alexander Stephen.

18 Q I take it the term is also used to  
19 describe the village? That's the name of the village  
20 the Hopis describe?

21 A That's my understanding.

22 Q The next location that you identify is the  
23 Colorado River. You say "the boundary follows the  
24 Colorado River," and you note that the Hopi word for  
25 that is P-i-s-i-s-v-a-y-u. Is that also an archaic

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1 term?

2 A I don't know if that's an archaic term.  
3 It may be. It may be a term, again, which the meaning  
4 isn't absolutely clear from its etymological structure  
5 or its morphemic structure.

6 Q Dr. Whiteley, the reason I ask, I note  
7 that you had the qualification of "possibly"--

8 A That's correct.

9 Q -- inserted before the definition. Do you  
10 have -- does this term translate literally into a  
11 description that you give here of "river between canyon  
12 walls"?

13 A I don't think it does. You were asking me  
14 this morning about, well, were there any differing  
15 interpretations of some of these place names, and I  
16 said yes.

17 Another possibility that somebody raised  
18 with respect to this term was that it referred to the  
19 noise of the water as it went through these canyon  
20 walls, okay?

21 So it's not -- it's not absolutely clear.  
22 But there was some idea that there was a reference to  
23 the river passing between canyon walls.

24 Q Does this place which has a Hopi word  
25 refer to the entire Colorado River, or does it refer

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1 just to the area between the Navajo Mountain and the  
2 confluence of the Little Colorado and the Colorado?

3 A I don't know the answer to that. You  
4 know, the way that we name rivers depends upon, I  
5 guess, at base, a theory of rivers, if you will, in  
6 each culture. I'm not sure that the Hopi theory of  
7 rivers is exactly the same as our theory or whatever.

8 In other words, I don't find it possible  
9 to say that Pisisvayu -- well, do we find it possible to  
10 say that the Colorado River begins at a definite  
11 point? Isn't it formed from a junction of the Green  
12 River and --

13 Q I believe you're right.

14 A So where does it actually begin? I'm not  
15 sure if it actually begins in a certain spot in our  
16 theory of things.

17 I guess -- I guess I feel like I'm really  
 18 speculating here, but my sense is that it certainly  
 19 extends from the conjunction of the confluence of the  
 20 Colorado and the San Juan, down into the Grand Canyon.  
 21 How much further it extends, I really don't know.

22 Q Fair enough. Of what religious  
 23 significance does this place have -- or does the river  
 24 have between those two places?

25 Ms. Sprague: Which two places? The

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1 confluence of the San Juan and the Colorado and what  
 2 other place?

3 Mr. Rogers: I think Dr. Whiteley  
 4 mentioned, as it enters into the Grand Canyon.

5 A Well, no. The other end of the Grand  
 6 Canyon. That's what I meant.

7 Q (By Mr. Rogers) Oh. Let's try it this  
 8 way: Of what religious significance is the Colorado  
 9 River to the Hopis?

10 A What I know about that is very limited, in  
 11 part because it's not something that I have  
 12 concentrated my questions upon, in part because this is  
 13 precisely secret sort of information.

14 Certainly it's associated with the  
 15 migration traditions of the Spider clan, who went up  
 16 the Colorado River, and identify -- I think the spider  
 17 clan identifies certain ruins at the bottom of the  
 18 Grand Canyon as their ruins.

19 And it's also associated in certain ways,  
 20 I think, with -- I -- I -- I'm really sort of having  
 21 difficulties here, because I don't -- I really don't  
 22 know.

23 The Grand Canyon itself is referred to in  
 24 Hopi as Omgstupqa, O-umlaut-m-g-t-u-p-q-a, which  
 25 translates literally to "salt canyon" or "salt"

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1 something which is like a canyon.

2 The association of this area with salt,  
 3 with salt woman, with the salt cave, and so forth, with  
 4 the emergence place at the conjunction of the Colorado  
 5 and the Little Colorado, in the general vicinity, some  
 6 people have suggested, I think from Hopi sources, that  
 7 this is part of a concept that depicts the earth as  
 8 somehow a female being, a female deity, and then I  
 9 suppose in that context the Colorado River becomes  
 10 maybe an alimentary canal of this female deity. But  
 11 this is very, very speculative, and I'm -- you know, I  
 12 might be laughed out of the room if there were  
 13 Hopis -- knowledgeable Hopis present.

14 Q And, Dr. Whiteley, I'm not asking you to  
 15 speculate, and I appreciate your candor; and if you do  
 16 not know the answer to my question, saying you don't  
 17 know is a fair answer.

18 A Okay.

19 Q There is only one way for me to find out  
 20 if you do know, and that's to ask you.

21 A Sure.

22 Q Dr. Whiteley, to your understanding -- well,  
 23 I'm going to make sure I understand your last answer.  
 24 Are you saying that it's difficult to desegregate the  
 25 significance of the Colorado River, apart from the

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1 significance to the Hopi of the Grand Canyon, that the

2 two places are associated together?  
 3 A It is -- it is for me, it is for me,  
 4 although on the evidence that Tuuvi had so much trouble  
 5 crossing the Colorado River at around Lee's Ferry, I  
 6 think it was, for the first time -- which is, if I  
 7 recall, quite a bit away from the beginning of the  
 8 canyon -- it would -- it would suggest that that river had  
 9 significance quite above where it enters the canyon.  
 10 Q So it had significance apart from its  
 11 association with the Grand Canyon?  
 12 A Whether it was apart from or as well as, I  
 13 don't know, but it certainly seemed to have  
 14 significance at that spot, in and of itself, for Tuuvi  
 15 and those others who would cross it.  
 16 Q Dr. Whiteley, I think you mentioned that  
 17 at least some Hopi identified the Grand Canyon as the  
 18 place of emergence. Is that a widespread view among  
 19 the Hopi?  
 20 A Well, there is this association with -- of --  
 21 with Sipaapuni, which is in the vicinity of the  
 22 conjunction of the Colorado and the Little Colorado, as  
 23 the place of emergence.  
 24 I think it's widespread among some Hopis.  
 25 That's no kind of answer to your question. I think

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1 it's fairly widespread, yes.  
 2 Q Are there other Hopis that dispute that  
 3 this was the place of emergence or hold a different  
 4 view?  
 5 A I don't really know. There are certainly  
 6 some Hopis who I've heard say, "Other Hopis believe  
 7 that that's exactly where we emerged from." I'm  
 8 thinking of one Hopi in particular who said this.  
 9 I don't know that that's the place we  
 10 emerged from, or whether it's a representation of the  
 11 place that we emerged from. I think this particular  
 12 individual was employing his knowledge of western  
 13 paradigms of understanding about human evolution.  
 14 I guess, in a sense, he was almost being a  
 15 bit skeptical that Hopis actually, at one historical  
 16 point, climbed out of the earth and was prepared to  
 17 acknowledge that that was an important version of  
 18 things, but in the same way as some Christians and Jews  
 19 believe that Genesis is a literally true story, and  
 20 others believe that it is a symbolically true story.  
 21 I think there are different sorts of  
 22 interpretations.  
 23 Q Well, do you have any reason to believe  
 24 that this particular person's viewpoint was unique to  
 25 him, of what other Hopi agreed, or that they were

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1 skeptical as to whether the Hopi literally came out of  
 2 the canyon or it was symbolic?  
 3 A His viewpoint probably wasn't unique. I  
 4 think it was probably in the minority.  
 5 Q Fair enough. Well, is the area that  
 6 extends from Navajo Mountain to the confluence of the  
 7 Little Colorado River, the Colorado, part of any clan's  
 8 clan claim, to your knowledge?  
 9 A Again, if I recall from looking at those  
 10 eagle-gathering maps, that whole area is a Bear clan  
 11 gathering area. The names of the other clans who  
 12 associated with that area, which I don't remember.

13 Q Dr. Whiteley, referring to eagle-gathering  
14 maps that you have seen, are you referring to  
15 Dr. Ainsworth's and Mr. Hamana's maps?

16 A In part, yes, in part, and also some maps,  
17 I think, which were constructed in the Healy versus  
18 Jones case, maps which are in the general holdings of  
19 Arnold & Porter.

20 Q Have you made any attempt to verify the  
21 accuracy of what's shown and depicted on those maps?

22 A No, I haven't.

23 Q Have you seen any other maps, aside from  
24 those that you have listed?

25 A I have seen a map in -- I'm just trying to

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1 recall. I think I saw some kind of map of the Keams  
2 Canyon Bia agency around 1980, which may have been  
3 eagle-gathering territory map.

4 I have seen a map which is a very rough  
5 map -- I don't think it's equatable with any geographical  
6 areas -- which was constructed either by Voth or by his  
7 successor, J. B. Epp -- I think the latter -- in Newton,  
8 Kansas, which refers to eagle territories, but it's -- to  
9 my recollection, it's a very crude map, and it's not  
10 very informative.

11 Q Well, I take it that you've made no effort  
12 to try to verify the information shown on either the  
13 Bia map or the Epp map?

14 A I'm sorry?

15 Q Have you made any effort to try to verify  
16 the information that was depicted on the Bia map that  
17 you said that you saw or the Epp, E-p-p, map that you  
18 saw?

19 A No, although I do recall having heard that  
20 such and such a person was going to go gathering in  
21 their clan area, and they had headed up north to such  
22 and such a point or down south to such and such a  
23 point.

24 This was not contradictory -- or it was not  
25 contradicted by my later -- by my later viewing of the

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1 maps that I've seen in respect to this case or my  
2 earlier viewing of this map at the Bia offices. But my  
3 recollection of that map at the Bia office is pretty  
4 poor, so --

5 Q Fair enough. Is the area between Navajo  
6 Mountain and the confluence of the Colorado -- Little  
7 Colorado River, as it follows the Colorado River, part  
8 of any village land claim, as we talked about earlier?

9 A Not to my knowledge.

10 Q Do you know if anywhere in between two  
11 points, Navajo Mountain and the confluence of the  
12 Colorado -- Little Colorado River, there are areas that  
13 certain societies have designated as being theirs, and  
14 as those areas that you described earlier as being  
15 places where nonsociety members are told to stay out?

16 A There's a place pretty close to Sipaapuni  
17 called Qwanivi, which, I think, is identified in Dr.  
18 Eggan's report, which is a place that, if you will,  
19 belongs to the Kwaakwant.

20 I don't know for sure that there are  
21 restrictions on other Hopis from going there, but I  
22 would not be at all surprised if there were such  
23 restrictions.

24 Q Excuse me --  
 25 A Well, I guess Qwanivi is Q-w-a-n-i-v-i.

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1 I'm not sure of the pronunciation of that. I've only  
 2 seen it written. I've never heard it pronounced. And  
 3 Sipaapuni is S-i-p-a-a-p-u-n-i.

4 Q Dr. Whiteley, to your knowledge, are there  
 5 clans that do not claim this area as part of their clan  
 6 claims?

7 A At this point, really what I've said about  
 8 Navajo Mountain I think must apply to this area too;  
 9 but the best -- the most honest answer that I can give  
 10 is: I don't know.

11 Mr. Rogers: Want to take a break at this  
 12 point?

13 Ms. Sprague: That's good.

14 (A break was taken.)

15 Ms. Sprague: Mr. Rogers, I consulted with  
 16 Dr. Whiteley during the break. He is having difficulty  
 17 with the use of the words "clan claim," "village  
 18 claim," and "religious society claim," in that there is  
 19 not a precise general meaning of those words.

20 I believe his testimony this morning was  
 21 that these words have to be understood in the -- in a  
 22 particular context, that in different context those  
 23 words may have quite different meanings, and he's  
 24 having difficulty with the questions being put to him  
 25 in a general sense, without a particular context

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1 specified.

2 I suggest this as an alternative, but, you  
 3 know, you, of course, are free to frame the questions  
 4 you put to him as you see fit, but it may be helpful to  
 5 put a question to him whether there are any particular  
 6 village clan or religious society claims to the area or  
 7 associations in the area, and leave it to him to  
 8 provide the context in supplying the answer.

9 Q (By Mr. Rogers) Well, Dr. Whiteley, my  
 10 intent is not to confuse you, and it does turn back to  
 11 the sentence on page 3, where you describe the -- state,  
 12 "The overall Tuts kwa is then a composite of the  
 13 interests of different sociopolitical units," and we  
 14 spent some time this morning breaking out what those  
 15 units were.

16 would it have more meaning for you if I  
 17 referred to these as -- well, what I'm trying to find out  
 18 is for the various landmarks on the boundary of the  
 19 Hopituts kwa. If I understand what you said on page 3  
 20 correctly, is that for each of the landmarks they  
 21 have -- or different clans have different associations  
 22 with those landmarks. Is that fair?

23 A In some instances it's fair; in others it  
 24 might not be so fair. I think I would support  
 25 Counsel's point. In other words, if you were to ask

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1 me, "well, do you know if Tokoonavi"-- since we've done  
 2 that one --"has any specific clan or religious society  
 3 or village associations?" I might be able to give an  
 4 answer to that more easily.

5 Q Dr. Whiteley, I think that's what I was  
 6 trying to drive at --

7 A Well --

8 Q -- and that's the kind of information I'm

9 trying to acquire.

10 Now, when you referred to associations, is  
11 that, in your mind, the same thing as claims? What I'm  
12 trying to, I guess, drive at is -- or trying to find out  
13 if particular claims or particular villages find a  
14 particular landmark to be of special significance for  
15 either cultural or religious or political or whatever  
16 reason.

17 A Given that you have covered all those  
18 bases, I think, yes, I think we could say that for  
19 these purposes. But then we might be able to find a  
20 place where we can say, well, this unit, whatever, has  
21 a specific association. Does that constitute an  
22 exclusive claim? No, it doesn't. In another case, it  
23 might constitute an exclusive claim.

24 So I think if we -- we can't -- I don't think  
25 we can necessarily define all of these parameters

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1 before going through the specific places.

2 Q Okay. Fair enough. I think we're going  
3 to have to deal with it on a landmark-by-landmark  
4 basis; and certainly if you are confused as to my  
5 question, feel free to ask me to try to clarify it.  
6 And I hope what I have just related to you, the  
7 information I'm trying to acquire, will help you in  
8 answering is the questions.

9 In your report, after you refer to the  
10 confluence of the Little Colorado and the Colorado, you  
11 indicate, on page 5 of your report, that the boundary  
12 then goes to a place which you translate as the  
13 Havasupai descent trail, which is Kooninhahawpi,  
14 K-o-o-n-i-n-h-a-h-a-w-p-i. Does that word translate  
15 literally into Havasupai descent trail?

16 A Yes, it does. Havasupai, in Hopi, are  
17 Koonivam, K-o-o-n-i-n-a-m. "Supai" means "going down  
18 place," so Havasupai descent trail.

19 Q Do you know if the Hopis have any other  
20 name for this place?

21 A Well, I have -- you know, as I point out in  
22 my Note 3, the shrine Potavetaqa, P-o-t-a-v-e-t-a-q-a,  
23 is nearby. I think I've heard the whole place just  
24 referred to as Potavetaqa by certain individuals.

25 Q Is this another example of what you

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1 described at the bottom of page 3 and the top of page 4  
2 as the same word being used to refer to a specific  
3 place and also a general area?

4 A It may be that, or it may be that the  
5 person who had referred to this place, by the time  
6 Potavetaqa, thought that that was the most significant  
7 aspect of the place and, therefore, chose that term for  
8 it to designate that place.

9 Q Well, I would like to treat these two  
10 places separately, the Havasupai descent trail and the  
11 place you have identified in your footnote as the  
12 migration-spiral symbol place.

13 Is the Havasupai descent trail -- well, what  
14 religious significance does the Havasupai descent trail  
15 have, apart from its association with the migration of  
16 a spiral symbol place?

17 A I don't know of one.

18 Q Is the Havasupai descent trail associated  
19 with particular clans?

20 A I don't know.  
 21 Q Is it associated with particular  
 22 societies?  
 23 A I don't know.  
 24 Q Does it have -- does this place have an  
 25 association with particular Hopi villages?

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1 A I don't know.  
 2 Q I would like to turn to the place you've  
 3 referred to in your footnote --  
 4 A May I -- I'm sorry. May I back up for a  
 5 minute?  
 6 Q Certainly.  
 7 A I don't know, and I answered those  
 8 questions honestly. In a general sense, the Grand  
 9 Canyon area, on a specific place within the Grand  
 10 Canyon, is known, well, as a specific place called  
 11 Maska, M-a-s-k-i, which is the house of the dead, or  
 12 Maska's house, where a lot of people are supposed to go  
 13 when they die.  
 14 In that sense, it may be reasonable to say  
 15 that the Grand Canyon area has more of an association  
 16 with the One-horn society, since the One-horn society  
 17 is closely associated with Maasaw and with ideas of  
 18 death than other societies are.  
 19 But I really cannot say that that's a  
 20 definite association with Kooninhawpi,  
 21 K-o-o-n-i-n-h-a-h-w-p-i.  
 22 Q I would like to turn to the place you have  
 23 identified in Footnote 3 of your report, Exhibit 1, to  
 24 the migration-spiral symbol place. Is that a literal  
 25 translation, or is the Hopi word another archaic form?

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1 A I'm not sure about that. This -- this  
 2 translation, I think, was -- was one that I asked Walter  
 3 Hamana about last August, and I think it was him who  
 4 indicated that that's what it referred to.  
 5 I'm not sure what parts of the word mean  
 6 exactly what. "Potave" I assume in some way or another  
 7 refers to a migration symbol, which is a spiral, okay?  
 8 Taka in certain ways refers to a place. Although I am  
 9 not comfortable with the distinction between "taka,"  
 10 t-a-k-a, and vi -- v-i or p-i in different contexts -- as a  
 11 denotation.  
 12 So, for example, one Hopi ruin that's well  
 13 known is called Nuvakwewaqa,  
 14 N-u-v-a-k-w-e-w-t-k -- t-a-k -- sorry -- t-a-q-a -- which is  
 15 generally translated to mean "snow belt place." But  
 16 "taka" is from "taka," which, generally speaking, means  
 17 "a man" or "a human being." Sometimes it refers to  
 18 other kinds of beings, if you will. I forget the exact  
 19 word for an airplane, but its suffix is taka.  
 20 So I guess my understanding of the place  
 21 designation of this suffix, this morpheme taka, is not  
 22 as clear as I would like it to be.  
 23 Q Of what religious significance is this  
 24 place?

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1 A I don't know; but from its translation, I  
 2 assume it has something to do with a migration legend.  
 3 Q Do you know if this place is associated  
 4 with any particular clans?  
 5 A I don't know.

5 Q Is it associated with any particular Hopi  
6 village or villages?

7 A I don't know.

8 Q Do you know if this place has any special  
9 significance to particular Hopi societies, religious  
10 societies?

11 A Given what I was just saying about  
12 Kooninhawpi, I don't know, Kooninhawpi in relation  
13 to the Grand Canyon as a whole.

14 Q And by your answer, it may be of some  
15 significance to the One-horn society, but you're not  
16 sure?

17 A Quite so.

18 Q You note that the shrine is nearby the  
19 Havasupai descent trail. How far is "nearby"?

20 A I really don't know.

21 Q Have you ever been to this place?

22 A I've been to -- I've driven up the road,  
23 which currently goes down to Havasupai -- well, where the  
24 Havasupai lived at the bottom of the canyon. I don't  
25 personally know if that is the same trail that is

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1 referred to as kooninhawpi. If it is, then I  
2 probably have been in the vicinity, but I didn't know  
3 at the time certainly.

4 Q Fair enough. Do the -- as you noted, the  
5 Havasupai live in Cataract Canyon; is that correct?

6 A Um-hum, to my knowledge.

7 Q Is the area where they live, the Havasupai  
8 live, within what the Hopi consider to be the Tutskwa?

9 A No, I don't think so.

10 Q I take it it's very close to the  
11 boundary?

12 A I'm not exactly how -- I'm not exactly sure  
13 how the linkage between this point called Kooninhawpi  
14 or the point called Potavetaqa is linked to the  
15 previous point and the Tutskwa boundary in general.

16 Q Dr. Whiteley, there is one point, I guess,  
17 I should clear up. On Exhibit No. 14, some of the  
18 spellings for some of the places is different from the  
19 spelling that you just used. Just so the record is  
20 clear, is it your understanding that what's referred to  
21 on Exhibit No. 14 as the Supai descent trail is the  
22 same place that you have identified in your report as  
23 the Havasupai descent trail?

24 A That's correct.

25 Q On page 4 of your report, in the first

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1 full paragraph, the last line, you state, "My  
2 interpretation is that, in Hopi thinking, connections  
3 between marked places would follow natural features  
4 associated with with religio-ecological resources,  
5 rather than straight lines."

6 Now, I note on Exhibit 14 that the places  
7 are -- that you refer to, at least many of them -- are  
8 marked out on Exhibit No. 14. Have you done sufficient  
9 investigation so that you would be able to draw a  
10 line -- a straight, curved, otherwise -- to link up these  
11 points to marcate the area which the Hopis consider to  
12 be part of their -- the Tutskwa?

13 A I haven't done sufficient research to do  
14 that, no. And as I say, it's my interpretation that it  
15 would follow such natural features, in the way that it

16 follows the Colorado River, which is clearly not a  
17 straight line.

18 But I have also heard some people say that  
19 it might follow site lines between certain points, some  
20 points which may never -- at least to my knowledge -- have  
21 been identified as part of the boundary itself.

22 I guess my judgment that, in Hopi  
23 thinking, connections would follow natural features  
24 associated with religio-ecological resources is my  
25 interpolation. I mean, it's not by any means a known

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1 fact.

2 Q Fair enough. And I guess my question to  
3 you is, Have you done enough investigation to feel  
4 comfortable today drawing a boundary between these  
5 places?

6 A I could give it a shot.

7 Q Dr. Whiteley, I'll give you a red pen.

8 A Do you want me to do it on Exhibit 14?

9 Q Certainly.

10 A Starting where?

11 Q Starting wherever you feel most

12 comfortable.

13 A Okay. May I register a protest that this  
14 map is not very clear topographically or  
15 geographically?

16 Q And, Dr. Whiteley, I understand that you  
17 are not a cartographer, and I will not hold you to the  
18 standards of a cartographer. I can also offer to  
19 you -- if it will assist you, you may make reference to  
20 the Aaa maps. I also have some Usgs maps that you  
21 might want to refer to.

22 A How large are your Usgs maps?

23 Q They're not the small, minute maps. It  
24 would be -- it would have to be pieced together, several  
25 large-scale --

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1 A Unless you really want me to do that --  
2 which I think I could definitely come up with something  
3 more accurate if I were to do that -- but if I -- I mean,  
4 if that's your intention, maybe I should take the time  
5 to do that; but -- are you interested in whether I can  
6 generally give a depiction on this sort of map, or --

7 Q My principal interest is to find out the  
8 approximate area that you believe is encompassed within  
9 the Tutskwa. I understand from your report that it's  
10 not appropriate to simply draw straight lines between  
11 the two points, and I certainly don't expect you to be  
12 familiar with all the geographical -- the topographical  
13 features in the area, but I would like to get an  
14 approximation.

15 If you feel comfortable doing that  
16 freehand on Exhibit 14, that's fine. If you feel more  
17 comfortable taking the time to look through the Usgs  
18 maps, I certainly am willing to give you the time to do  
19 that as well.

20 A May I consult with counsel?

21 Q Certainly.

22 (Discussion off the record between  
23 deponent and his counsel.)

24 Ms. Sprague: what I have suggested to  
25 Dr. Whiteley is that he give it his best effort on

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1 Exhibit 14, and if there is a natural feature that he  
 2 is attempting to follow on this map, he will simply  
 3 make a statement that his intention is to follow such  
 4 and such a water body or geographical feature.

5 So if he deviates from the actual location  
 6 of that feature on this map, it should be clear if he  
 7 simply states what his intent is along with his drawing  
 8 on Exhibit 14.

9 Mr. Rogers: Oh, that's fair enough.

10 Q (By Mr. Rogers) What I'm looking for is  
 11 an approximation.

12 A Okay.

13 Q And I'm somewhat handicapped, because such  
 14 a map wasn't included with your report, and I just want  
 15 to make sure if I haven't missed some major area by  
 16 drawing straight lines between the two points, which  
 17 was my natural instinct.

18 A (Deponent complied.)

19 Mr. Rogers: The record should reflect  
 20 that Dr. Whiteley has drawn in red ink a line on  
 21 Exhibit No. 14 which encompasses and includes the  
 22 landmarks which are identified on that exhibit.

23 Q (By Mr. Rogers) Dr. Whiteley, in fairness  
 24 to you, I do want to ask you: Are there some parts of  
 25 this boundary that you have some uncertainty about,

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1 either because of the inadequacy of the way the  
 2 features are depicted on this map or for other  
 3 reasons?

4 A Yes, there are. My intention  
 5 was -- starting at Tokoonavi -- is to go from there  
 6 following the course of the Colorado River. I don't  
 7 know if in Hopi conceptions this is in the middle of  
 8 the river or if it is on the near side of the river or  
 9 if it is on the far side of the river. I don't know if  
 10 that's even a distinction that they make. But my  
 11 intention is to follow the Colorado River, and then to  
 12 come up toward -- to meet -- I'm not sure how that comes up  
 13 from the river, whether it follows the trail down to  
 14 Havasupai itself or how it comes up, whether it might  
 15 follow topographic features up to that point.

16 Then to follow up what I believe is  
 17 Cataract Creek, towards Bill Williams Mountain, to go  
 18 down from Bill Williams Mountain to Bear Springs, to  
 19 link up at some point south of Bear Springs with  
 20 Mogollon Rim, following Mogollon Rim as far as Apache  
 21 descent rim, continuing along the Mogollon Rim to a  
 22 certain point, and following up to Woodruff Butte. I'm  
 23 not sure exactly of the topographic features there  
 24 which it would follow.

25 There is a tributary to the Little

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1 Colorado there, I think, which may be part of that  
 2 top -- may be part of that topographic nexus.

3 Then to, generally speaking, follow the  
 4 line from Woodruff Butte of the Rio Puerco of the west,  
 5 up towards this place associated -- it's close to Lupton,  
 6 then to follow the Black Creek Valley north and to a  
 7 certain point where it -- where this line crosses  
 8 northwest into the Canyon DeChelly, it emerges out of  
 9 the mouth of the Canyon DeChelly. And at this point I  
 10 have drawn what -- a line which I believe to be perhaps  
 11 the most consensual version nowadays of what Hopis

12 consider to be this northeastern boundary of the  
13 Tutskwa.

14 As I stated in my report, there is reason  
15 to believe that at one point in the past instead of  
16 cutting across to the northeast side of Black Mesa -- I'm  
17 looking at the area in the immediate vicinity of the  
18 northeast corner of the 1882 Executive Border Hopi  
19 Reservation -- instead of taking that path, this line  
20 would have possibly included all of the Canyon  
21 Dechelly -- actually, I don't say that in my report -- but  
22 included in part of the Canyon Dechelly, and then  
23 followed the Chinle Creek as it comes out of the Canyon  
24 Dechelly, and goes pretty well due north until it  
25 becomes the Chinle Wash or vice versa, I'm not exactly

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1 sure how that works, up to the Chinle Creek's, Chinle  
2 wash's confluence with the San Juan, and then the  
3 boundary would follow the San Juan back to Tokoonavi,  
4 okay?

5 Instead, the line that I have drawn I  
6 think reflects this most consensual view in recent  
7 times, that out of the mouth of the Canyon Dechelly,  
8 the line links up with the northeast escarpment of  
9 Black Mesa and follows that to a certain point.

10 One of these points up in here is referred  
11 to as Lolomai Point in English, although that's not its  
12 Hopi name, I don't think.

13 And then after following that to a certain  
14 point, to cut across -- and I'm not sure which  
15 topographic features to follow here -- to the general  
16 vicinity of Kawestima, given my slight differences or --  
17 I don't know whether they're slight or not -- my  
18 differences with the interpretation of Kawestima to  
19 include a rather larger area than just Betatakin Ruin.  
20 I've been constrained to follow what's on this  
21 particular map, so I've drawn it to that point.

22 Maybe the way I would draw it if I had  
23 another map is to be -- actually is to include a somewhat  
24 larger area there. But anyway, I have drawn it to  
25 follow that up to Betatakin Ruin, and then back to

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1 Tokoonavi.

2 I'm not sure which topographic features  
3 I'm following there. Maybe I could be more precise if  
4 I had a Usqs map of that area, but I have a feeling  
5 that I would really be engaging in guesswork there  
6 too.

7 Q Fair enough. Dr. Whiteley, you do refer  
8 to another interpretation of the northeastern boundary  
9 of the Tutskwa. Was that the interpretation that you  
10 discuss in Footnote 4 on page 5 of your report?

11 A That's correct.

12 Q Dr. Whiteley, could you draw on the  
13 Exhibit No. 14, with a dashed line, where that  
14 alternate boundary would run.

15 A Do you want me to do it in blue instead?

16 Q It will be xeroxed in black and white. In  
17 either event, if you prefer blue, we can do that. It  
18 will all come out black.

19 A (Deponent complied.)

20 Mr. Rogers: The record should reflect  
21 that the witness has drawn with a dashed line an area  
22 extending northward up the Chinle wash to the San Juan

23 River, and then west, joining with the first nondashed  
 24 line that the witness drew earlier.  
 25 Off the record.

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1 (Discussion off the record.)  
 2 Q (By Mr. Rogers) Dr. Whiteley, I now want  
 3 to return to the listing of places that you have on  
 4 page 5. Following your reference to the Havasupai  
 5 descent trail, you state that the boundary goes "thence  
 6 up Cataract Creek to Tusaqtsomo," which you have --  
 7 following your entry of that word is "grass hill" or  
 8 "Bill Williams Mountain." Is that the same place as  
 9 Bill Williams Mountain?

10 A I think it is, yes.

11 Q And is this another example of an archaic  
 12 Hopi word?

13 A I'm not sure. Somo is certainly a hill,  
 14 or I guess it could be a mountain. I haven't usually  
 15 heard it referred to as a mountain. Tusaqt, I haven't  
 16 checked that. I was told that it referred to a certain  
 17 species of grass.

18 I think it could be fairly easily checked  
 19 by looking at whiting's Ethnobotany of the Hopi, but I  
 20 guess I haven't -- I had no reason to doubt that that's  
 21 what it meant, since I had heard that translation from  
 22 several people, I think, at some point or another.

23 Q Have you ever been there?

24 A Yeah.

25 Q Did you ever go to this place with any of

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1 your consultants?

2 A No.

3 Q Do you know what religious significance  
 4 this place has?

5 A I either don't know or I don't remember.

6 Q Is this place associated with any  
 7 particular Hopi clans?

8 A It may be. I don't know.

9 Q Is it associated with any particular Hopi  
 10 villages?

11 A Likewise, I don't know.

12 Q Is it associated with any Hopi societies?

13 A I don't know.

14 Q Are there any locations between Bill  
 15 Williams Mountain and the Havasupai descent trail,  
 16 along the boundary that you've depicted in Exhibit -- on  
 17 Exhibit 14 that are of religious significance to the  
 18 Hopi?

19 A I don't know. I have thought, though, in  
 20 respect to your last question, that I believe this  
 21 general vicinity of Bill Williams Mountain, and  
 22 possibly the next point, Bear Springs, is associated in  
 23 part at least with Bear clan migration traditions, and  
 24 possibly with Bow clan migration traditions. I'm  
 25 unsure of both of those statements, but there are those

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1 possible associations.

2 Q Dr. Whiteley, is Bill Williams Mountain  
 3 and the next location, Bear Springs, associated with  
 4 one another in myth or in other lore?

5 A Again, I really don't know. If my guess  
 6 just now about Bear clan and possibly Bow clan  
 7 associations with the area is correct, it may indeed be

8 that Bear Springs and Bill Williams Mountain are  
9 associated, but I don't know.

10 Q Fair enough. Do you know if this area is  
11 significant to the Bear clan members on all three  
12 mesas?

13 A I don't know.

14 Q Do you --

15 A At least -- I'm sorry. I don't want to be  
16 smart, but to my knowledge there are no Bear clan  
17 people on First Mesa.

18 Q Fair enough. That was the clan that  
19 became extinct?

20 A Yeah.

21 Q Do you recall how either Bear Springs or  
22 Bill Williams Mountain fits into Bear clan migration  
23 mythology?

24 A I really don't, no. The general idea, I  
25 think, is that the Bear clan reached Hopi -- reached the

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1 Shongopavi from the southwest, and that they spent some  
2 time in the vicinity of the San Francisco Peaks.

3 Either they were associated with some of  
4 the villages that are ruins today, including Eldon  
5 Pueblo, for example, and that prior to that they had  
6 migrated from areas still further to the southwest.  
7 Maybe that's what some of those associations are, but I  
8 may be wrong.

9 Q Do you know how either of these places,  
10 Bear Springs or Bill Williams Mountain, fits in with  
11 Bow clan migration myths?

12 A I've heard a Bow clan migration story  
13 which, again, gives a general -- now that you mention it,  
14 I have a somewhat hazy recollection that there may  
15 indeed have been a movement by the Bow clan from the  
16 vicinity of Bill Williams Mountain northeastward,  
17 either to the area around San Francisco Peaks or --  
18 yeah, I guess to the area around San Francisco Peaks,  
19 and then on towards Hopi -- I mean the Hopi villages that  
20 we know today, but that's about the extent of my  
21 recollection on that.

22 Q I take it -- well, do you know why that area  
23 is significant to the Bow clan?

24 A No. The Bow clan, which is a Third Mesa  
25 clan, I think only in recent historic times, although

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1 there may have been clans that were closely linked to  
2 it at First Mesa, clans which we call the Arrow clan, I  
3 think, may have existed there in the past.

4 The Bow clan was certainly supposed to be  
5 a significant clan at Awat'ovi, A-w-a-t -' - o-v-i, before  
6 its destruction in 1700. But in recent historic times  
7 the Bow clan, I think, is just confined to -- to Third  
8 Mesa.

9 The Bow clan at Third Mesa owned the  
10 Two-horn society and owned -- well, again, I'm  
11 using -- back to the problems with the term "owned." I'm  
12 using "owned" now as it's used in the literature  
13 principally by Titiev and, I think, by Fred Eggan.

14 The Bow clan also owned certain kachinas  
15 which are associated with a Hopi Sa'lako ceremony, S -- I  
16 guess Armond spells that S-a -' - l-a-k-o, Armond Geertz,  
17 G-e-e-r-t-z.

18 The Bow clan has a number of other

19 significant historical traditions too. Maybe some of  
 20 those are specifically associated with the vicinity of  
 21 Bill Williams Mountain, but maybe they're not.  
 22 Q Dr. Whiteley, do you know if, according to  
 23 the Bow clan migration mythology, whether any  
 24 significant events or events -- important events to the  
 25 clan occurred in the vicinity of Bill Williams Mountain

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1 or Bear Springs?  
 2 A I don't know. It's quite possible, if  
 3 indeed it is a significant Bow clan place; but since  
 4 I'm not absolutely sure of that, I can't say.  
 5 Q I would like to turn to Bear Springs,  
 6 which you identify on page 5 as Hoonawpa,  
 7 H-o-o-n-a-w-p-a. Does that directly translate into  
 8 "Bear Springs"?  
 9 A Yes. Hoonawa is a bear. "Pa" is short  
 10 for "paahu," which means, in this context, "springs."  
 11 "Paahu," of course, can also mean "water," P-a-h-u -- oh,  
 12 sorry -- p-a-a-h-u.  
 13 Q Have you ever been there?  
 14 A I don't think I have, no.  
 15 Q Apart from what you have just related  
 16 regarding Bill Williams Mountain, do you know of what  
 17 religious significance Bear Springs is to --  
 18 A I don't.  
 19 Q The next location which you identify in  
 20 your report -- well, you state that you go from Bear  
 21 Springs thence southeast roughly following the Mogollon  
 22 Rim to the Hopi word which I won't pretend to  
 23 pronounce, which you translate as the Apache descent  
 24 trail, and the word is spelled  
 25 Y-o-t-s-i '- h-a-h-a-w-p-i. Does this Hopi word

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1 translate directly into Apache descent trail?  
 2 A It does, yes. Yotsim, Y-o-t-s-i-m, I  
 3 think is a term which was generally used for the  
 4 Western Apaches, and Hahawpi is the same as in  
 5 Kooninhahawpi.  
 6 Q Does this place have another name in  
 7 Hopi?  
 8 A Well, it may. It's not too far away  
 9 from -- as I say in my parentheses, it's not too far away  
 10 from the head of Chevelon Creek, which is referred to  
 11 as Sakwavayu, S-a-k-w-a-v-a-y-u. Chevelon is  
 12 C-h-e-v-e-l-o-n.  
 13 There is a ruin in the vicinity, I don't  
 14 know exactly where, at the head of this creek called  
 15 Sakwavayki, S-a-k-w-a-v-a-y-k-i, which may be the most  
 16 significant part of this area.  
 17 So, again, a Hopi -- if my hypothetical  
 18 reconstruction is correct here -- and that's all it is,  
 19 hypothetical -- it may be that a Hopi who had a  
 20 particular association with this ruin, with this former  
 21 village, would stress that part of the place and refer  
 22 to it as Sakwavayki, as opposed to Yotsi'hahawpi.  
 23 Yotsi'hahawpi is Y-o-t-s-i '- h-a-g-a-w-p-i.  
 24 (Discussion off the record.)  
 25 Q Dr. Whiteley, does the Apache descent

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1 trail have any religious significance to the Hopi?  
 2 A You know, that's another difficult  
 3 question. I don't really know the answer to that.

4 I -- I hypothesize that in their trips down to the San  
5 Carlos area for specular iron -- I don't know where I do  
6 that in this report, but it's somewhere -- that they may  
7 indeed have followed this trail and gone over the  
8 Mogollon Rim at this particular point.

9 Since specular iron was associated with  
10 warfare rituals, then it's not totally beyond the  
11 bounds of possibility that this trail or this point in  
12 this trail had some special significance to the  
13 Momtsit, as Titiev calls them, M-o-m-t-s-i-t, or as my  
14 consultants called them, the Moomots, M-o-o-m-o-t-s,  
15 which was the warrior society. But, again, fairly wild  
16 speculation there.

17 Q Dr. Whiteley, I just want to -- the Momtsit  
18 society is extinct?

19 A To my knowledge, yes.

20 Q Was it still in existence at Oraibi at the  
21 time of the split?

22 A That's a matter for debate. Certainly  
23 they were in issues shoots of that society who were  
24 alive in 1906 and long after. Titiev, I think, claims  
25 that the society had become officially defunct.

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1 One of my consultants, who is a very, very  
2 elderly lady, and she may be no longer living,  
3 indicated that she could remember the what she called  
4 the last performance, last public performance of  
5 the -- of the -- of the Moomots when she was a little girl,  
6 which I would have put at probably the late 1890s.

7 Q Fair enough. Do you know if the society  
8 considered this trail to -- descent trail to be  
9 significant?

10 A I really don't know, no.

11 Q Do you know if the trail is associated  
12 with particular Hopi clans?

13 A In that there are certain clans which  
14 migrated from the south, and I'm thinking -- my knowledge  
15 isn't that very -- isn't that good on this, but in  
16 particular the Water clan at Second Mesa, I think the  
17 Snow clan at Second Mesa.

18 There may be some other clans which are  
19 associated in a phratry with those clans. Clans that  
20 lived for a while, anyway, at Homolovi,  
21 H-o-m-o-l-o-v-i, which is the ruin near Winslow.

22 It's possible that that -- that trail is  
23 important to those clans or others which have migrated  
24 from the south.

25 Q I take it you're not sure?

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1 A But I'm not sure, no. Again, if we -- if --  
2 and this I just don't know -- if the most significant  
3 thing about this place is actually not the point  
4 Yutshohobi, which seems to be a very definite point,  
5 but Sakwavyki, S-a-k-w-a-v-a-y-k-i, this ruin in the  
6 vicinity of the head of this creek, then I imagine that  
7 there would be definitely clan associations with that  
8 area.

9 Q And I was going to get to that. Does this  
10 route have another name? Because I'm sure I don't know  
11 it by the Hopi name.

12 A If it does, I don't think I know the name  
13 for it either. I suspect that it has a number assigned  
14 by the Museum of Northern Arizona Archaeology Lab as a

15 site, and it may have a name which is conventionally  
16 used by archaeologists, but I don't know. I know it  
17 only by its Hopi names.

18 Q Do you know of any clans which claim  
19 association with this ruin as being a place for  
20 settlement on the way to Hopi or other associations?

21 A Beyond what I just said about these  
22 particular clans, and that may be inaccurate in the  
23 case of this particular place, I really don't know,  
24 no.

25 Again, I think, you know, way -- one way to

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1 get towards figuring some of this stuff out, if that  
2 was our goal here -- I know it's not -- but if it was, you  
3 would say, "well, who has heal-gathering rights in the  
4 area?"

5 And if it is associated, as I seem to  
6 recall it may be, with a specific clan or two or three  
7 specific clans, then the logical conclusion from that  
8 would be that maybe those clans -- that was part of their  
9 migration tradition.

10 So, again, in this hypothetical situation,  
11 we would then go to elders of those clans and say,  
12 "well, what are the ruins that you claim?" Or I guess  
13 if we wanted to prejudice our answer we might say,  
14 "well, do you claim this particular ruin?" And, you  
15 know, that's sort of how you would go about it.

16 Q Between the locations of the Apache  
17 descent trail and Bear Springs, as you have depicted  
18 the boundary on Exhibit No. 14, are there any places of  
19 religious significance or special religious  
20 significance to the Hopi?

21 A Yes, I think so. The one that's often  
22 cited as a boundary point is, I think, Pohogha, and I'm  
23 not exactly sure that I have the pronunciation of that  
24 right.

25 Let me start that again.

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1 P-o-umlaut-h-o-umlaut-q-h-a. The way it's been spelled  
2 in other things that I've seen -- just to make this  
3 clearer for Mr. Rogers, he may have seen this  
4 spelling -- is P-e-h-e-g-h-a, I think.

5 Anyway, this term is generally  
6 translated -- or it's not translated, but it's associated  
7 with the English name Blue Ridges.

8 Q And does this word translate literally  
9 into English?

10 A It does, but I don't know the literal  
11 translation. When I asked Walter Hamana that last  
12 August, he indicated it was named that because those  
13 plants were in that area. I was not able to get him to  
14 specify which particular plants they were, but I don't  
15 know that I actually pushed the question that far, but  
16 I think it refers to a particular plant that's gathered  
17 in that area.

18 Q Do you know of what religious significance  
19 this place has to the Hopi?

20 A No, but I imagine it has something to do  
21 with the gathering of these plants.

22 (At this time, Ms. Bogan left the  
23 deposition room.)

24 Q Do you know if there are particular Hopi  
25 clans that are associated with this site?

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1 A Again, in that it's not very far away from  
2 this general Chevelon Creek, and there is another  
3 creek -- the name of which eludes me for the time  
4 being -- which is also -- it's a sort of parallel tributary  
5 of the Little Colorado, which is also regarded as an  
6 important area for gathering certain sorts of  
7 resources -- maybe this whole area is associated with  
8 some of those clans which migrated through this area on  
9 towards Second Mesa or wherever, so it's possible that  
10 it has those associations too.

11 Q But I take it you're not sure?

12 A But I'm not sure.

13 Q Do you know if this place has any  
14 particular associations with certain Hopi societies?

15 A I don't know.

16 Q Do you know if certain villages are  
17 associated -- or strike that -- if this place is associated  
18 with particular Hopi villages?

19 A My intuition -- and that's all it is -- from  
20 what I have read, and vague recollections that I can't  
21 even identify, are that it may be more associated with  
22 Second and First Mesa than with Third Mesa.

23 But given -- let me insert -- given that  
24 Walter Hamana, who is from Third Mesa, knew that this  
25 area was associated with these plants, I don't know if

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1 he was recounting knowledge that derived from his  
2 origins at Third Mesa, or maybe he was reflecting  
3 knowledge from elsewhere.

4 If it was Third Mesa knowledge, then the  
5 way that I've just stated my intuition would not be  
6 correct, and it would include Third Mesa interests as  
7 well as Second and First Mesa.

8 Q And, again, you're not sure?

9 A But I'm not sure.

10 Q Are there any other signs or places  
11 between Bear Springs and the Apache descent trail along  
12 the boundary that -- the approximate boundary that you've  
13 depicted on Exhibit 14 --

14 A Well --

15 Q -- that are --

16 A May I make a request --

17 Q Certainly.

18 A -- to consult the map that's included  
19 in -- that's so far been included in this document? I  
20 seem to recall that this petition of 1930 -- the map  
21 depicts Mormon Lake as an important area.

22 Q Dr. Whiteley, following page 19, in  
23 Exhibit No. 1 -- and, Dr. Whiteley, you should feel free  
24 during the course of this deposition to refer to any  
25 document that's been previously marked as an exhibit.

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1 A Okay. Thanks.  
2 Well, now, this is difficult, because it's  
3 obviously a boundary which is a little bit further  
4 inside the boundaries that I have drawn on Exhibit 14.  
5 So I guess Mormon Lake wouldn't be part of that  
6 outlying boundary, as I have drawn it inside that.

7 So without further thought, I don't think  
8 there are any others that I know of.

9 Q Why don't we adjourn for the day.

10 A Okay.

Ms. Sprague: That's fine.

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1 whereupon, the within proceedings were  
2 concluded at the approximate hour of 5:10 p. m. on the  
3 22nd day of March, 1989.

4 I Peter M. Whiteley, Ph. D., do hereby  
5 certify that I have read the foregoing deposition and  
6 that the same is a true and accurate transcript of my  
7 testimony, except for attached amendments, if any.  
8  
9

Peter M. Whiteley, Ph. D. - Volume Ii

10 ( ) No changes ( ) Amendments attached

11  
12  
13 Subscribed And Sworn To before me this  
14 day of , 1989.  
15  
16  
17

Notary Public  
Address  
My commission expires

18  
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C E R T I F I C A T I O N

1 I L. Lynne Stammen, Registered  
2 Professional Reporter, appointed to take the deposition  
3 of  
4  
5

6 Peter M. Whiteley, Ph. D. - Volume Ii,  
7 certify that before the deposition the deponent was  
8 duly sworn by me to testify to the truth; that the  
9 deposition was taken by me at 1700 Lincoln Street,  
10 Suite 4000, Denver, Colorado 80203, on March 22, 1989;  
11 then reduced to typewritten form, by means of  
12 computer-aided transcription, consisting of 185 pages  
13 herein; that the foregoing is a true transcript of the  
14 questions asked, testimony given, and proceedings had.

15 I further certify that I am not related to  
16 any party herein or their counsel and have no interest  
17 in the result of this litigation.

18 In witness Whereof, I have hereunto set my  
19 hand this 31st day of March, 1989.

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L. Lynne Stammen  
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Hyatt & Associates, Inc.  
Registered Professional Reporters  
1719 Emerson Street  
Denver, Co 80218  
(303) 830-0208  
March 31, 1989  
Mary Gabrielle Sprague, Esq.  
Arnold & Porter  
1700 Lincoln Street, suite 4000  
Denver, Co 80203

Re: Sidney vs. Macdonald, et al.  
Deposition of: Peter M. Whiteley, Ph. D. - Volume Ii  
Enclosed is the original signature page of the above  
deposition. It was agreed that you would arrange for  
signature for the above deposition by means of your  
copy transcript and the enclosed original signature  
page.  
Also enclosed is a form of Amendment for changes, if  
necessary. After having the signature page and  
Amendment form signed, please have them notarized and  
return for filing . . .

- X to this office within 30 days to comply with  
the statute  
to ^,  
within \* days with copies of Amendments to  
this office  
to this office by ^ since trial in  
this matter is set for ^  
  
to court on the date of trial,  
with copies of Amendments to other counsel,  
plus copy to this office.

Thank you for your attention to this matter.  
  
Sincerely,  
Hyatt & Associates, Inc.  
cc: John W. Rogers, Esq.  
Peter M. Whiteley, Ph. D.

Hyatt & Associates, Inc.  
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1719 Emerson Street  
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Phoenix, Arizona 85102

WHITEL2.TXT

7 Re: Sidney vs. Macdonald, et al.  
Deposition of: Peter M. Whiteley, Ph. D. - Volume Ii  
8 Date of Deposition: March 22, 1989

9 Enclosed is the above original transcript. ..

10 signed, no changes

11 signed, with changes, copy enclosed

12 not signed, notice duly given 3-31-89,  
pursuant to the Rules of Civil Procedure  
13 not signed, notice duly given  
since trial is set for ^

14 to be signed in court or signature pages  
15 to be returned to court on date of trial  
16 signature pages/amendments to be returned to  
above counsel

17 signature not required

18 mailed by certified mail

19 hand-delivered

20 Hyatt & Associates, Inc.

21 cc: Mary Gabrielle Sprague, Esq.

22  
23  
24  
25  
□